LEGISLATIVE COUNCIL

Wednesday 24 March 1999

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I lay on the table the twelfth report of the committee 1998-99.

QUESTION TIME

PARLIAMENT, MEMBERS INDEMNIFICATION

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Attorney-General a question about Government indemnity offered to members of Parliament.

Leave granted.

The Hon. CAROLYN PICKLES: Late last Friday solicitors for the Treasurer and the member for Bragg indicated that they were consenting to judgment in the sum claimed of $20 000 in relation to a defamation action brought by the Hon. Nick Xenophon. The Treasurer then suggested that Mr Xenophon should not accept taxpayers' money as a settlement, which is an extraordinary statement as I understand that the Hon. Nick Xenophon was not seeking the taxpayers' money, anyway. My questions are:

1. On what basis was the member for Bragg indemnified by the Crown, given that he was the publisher of the defamatory document and that he is not a Minister?

2. What process was used to determine that the Treasurer had acted in his role as a Minister of the Crown in preparing the defamatory material?

3. Is either the member for Bragg or the Treasurer further indemnified if other action is taken in relation to this or any subsequent matters arising from this issue?

The Hon. K.T. GRIFFIN: There are a series of questions there, some of which I will take on notice. The Leader of the Opposition is wrong in a number of respects. If the honourable member looked at my ministerial statement on 2 March this year, she would see that I did say that the member for Bragg would not be granted an indemnity. The legal costs incurred by the member for Bragg will be met by the member and not by the Government.

The Treasurer was advised that there was an error in the leaflet circulated late last year in the electorate of Bragg. The Treasurer acknowledged that error and issued a retraction and apology which was immediately circulated in the electorate of Bragg.

When the Hon. Mr Xenophon instituted legal action, the Treasurer was advised that, even though he had apologised for the error, there had been a defamation and that he should consent to judgment. Such a response, of course, ensured that significant legal costs would not be incurred in defending the action. The Treasurer advised that he accepted full responsibility for the content of the leaflet and that the member for Bragg had no involvement at all in the production of that leaflet. On that basis, and given the decision consistent with longstanding—

The Hon. L.H. Davis: It's just like Mike Rann writing Paul Holloway's response in the *Advertiser* this morning.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. Davis: That brought things to a halt, didn't it!

The Hon. Carolyn Pickles: You just think you're a big joke.

The Hon. K.T. GRIFFIN: Not half as much a joke as the Hon. Mr Rann. On that basis—

The Hon. T.G. Cameron: That is most uncharacteristic of you, Trevor.

The Hon. K.T. GRIFFIN: I couldn't resist it. On that basis—

The Hon. R.R. Roberts: Did you write this yourself?

The Hon. K.T. GRIFFIN: I accept responsibility for everything I do. If I make mistakes, I acknowledge them; if I do not make mistakes, I expect to be given a bit of credit for it. All right?

The Hon. T.G. Cameron: Can we get on with this?

The Hon. K.T. GRIFFIN: I am waiting for people to listen to the answer.

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: On that basis—that is, on the basis that the Treasurer advised that he accepted full responsibility for the content of the leaflet and that the member for Bragg had no involvement at all in the production of the leaflet—and given that the decision was consistent with longstanding convention to provide the Treasurer with an indemnity, the amount claimed by Mr Xenophon, plus costs, will be paid by the Government. That is the position: simple, clear, no problems with it as far as I can see.

The Hon. CAROLYN PICKLES: I have a supplementary question. The Attorney-General has indicated in his answer that he would—

An honourable member: Question!

The Hon. CAROLYN PICKLES: I am putting the question direct to him; just be patient.

The PRESIDENT: Order! It is not sounding that way from the Chair.

Members interjecting:

The PRESIDENT: Order! The Leader has the floor.

The Hon. L.H. Davis: You have to put the question mark at the end of it.

The Hon. CAROLYN PICKLES: Yes, Mr Davis, I understand what a question mark is.

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: You are not the only one who can write a sentence.

Members interjecting:

The Hon. CAROLYN PICKLES: Have you finished?

The Hon. A.J. Redford: Think your way through this and just ignore them!

The Hon. CAROLYN PICKLES: If only I could; they are very ignorable. Will the Attorney-General indicate when he will provide a response to my third question?

The Hon. K.T. Griffin: What was your third question?

The Hon. CAROLYN PICKLES: The third question was: is either the member for Bragg or the Treasurer—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. Griffin: I cannot hear what she is saying.

The PRESIDENT: Order! The question cannot be heard.

The Hon. CAROLYN PICKLES: Is either the member for Bragg or the Treasurer further indemnified if further

action is taken in relation to this or any subsequent matters arising from this issue?

The Hon. K.T. GRIFFIN: That is entirely speculative. I would hope there will be no further action, but I have already indicated that the member for Bragg does not have an indemnity. What more do you want? If the Treasurer is sued in his capacity as a Minister, having made a statement as a Minister, which it is alleged is defamatory, generally, as it does with other Ministers—and as it did with Labor Ministers—it will be the subject of an indemnity. I can remember a number of former Labor Ministers—or at least one or two: I should not say 'a number' as that might misrepresent the position—who were indemnified in relation to legal costs for action which they took in what they argued was in the course of the exercise of their ministerial responsibilities. We might argue about whether or not that was the case, but looking at the Treasurer's statement it was clear that it was made on his letterhead and within the scope of his responsibility as Treasurer.

ELECTRICITY, PRIVATISATION

The Hon. P. HOLLOWAY: Given that we have only one scheduled sitting day left in the Autumn session, when will the Treasurer respond to the many questions which have been asked by Opposition and other non-Government members concerning the Government's plans for ETSA and Optima Energy and, in particular, when will he supply a summary of the agreements between National Power and the Government in relation to Pelican Point Power Station, which he promised in a press release of 5 February would be tabled in Parliament the following week, that is, by 12 February; correspondence between NEMMCO and the Government concerning the operation of the national electricity market since its commencement, which I asked on 18 February; correspondence from the National Competition Commission and the ACCC in relation to the proposed restructuring of ETSA and Optima Energy, which I asked on 21 July last year and which has been only partially answered by the Treasurer; his instructions to the ETSA board concerning the Olsen-ETSA tax, which I asked on 2 March; the information on the upgrading of the gas supply and the power transmission system at Pelican Point, which I asked again on 7 July 1998, nearly 12 months ago; the costs and source of funds for augmentation of the ETSA transmission network, asked on 9 March this year; augmentation of the gas pipeline to Pelican Point, which I asked on 10 February; and, finally, the load shedding policies of ETSA and the reasons for the power failure of 4 February, a question I asked on 11 February? When will the Treasurer finally answer these and the many other questions which have been asked by members of this Parliament?

The Hon. R.I. LUCAS: As soon as we possibly can. It will not surprise the Deputy Leader of the Opposition to hear that I am spending countless sleepless nights trying to get these answers together for him—as are my officers. I assure the honourable member that it is one of my top priorities in terms of trying to obtain information for the Deputy Leader of the Opposition, and we will do all we can to provide the answers as soon as is reasonably possible. Certainly, those questions that go back to July of last year I will have checked.

I note that the honourable member claimed that the answers he had been provided with were not sufficient for him. That may well just have to be his judgment. He cannot then complain that there has not been an answer. He can complain that he is not happy with the quality of the answer but let me assure him that, having spent 11 years in Opposition, I am aware that that is a constant view that members of the Opposition have occasionally about governments. With respect to those questions that have not been responded to at all, particularly those that might be of long standing, I will certainly have those matters checked. With respect to questions that have been asked only in the past few weeks, the honourable member needs to be a little reasonable: the whole world does not revolve around the questions that he asks in this Chamber. We will provide responses as soon as we can.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: As soon as we can provide a satisfactory summary of the document—and, as I indicated, I would hope that that will be in the first week. But as soon as we possibly can we will table a copy of that in the Parliament. There are some procedures that we have to go through, and we are working as hard as we can on that issue. With respect to the other questions that relate to the past few weeks, the honourable member will just have to be patient. We are doing the best we can to obtain comprehensive replies for him.

WATER MANAGEMENT

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Environment and Heritage, a question about water management.

Leave granted.

The Hon. T.G. ROBERTS: Recently I asked a question (and I am not expecting an answer probably until the end of August, based on the previous member's position) in relation to the benefits of the Government's developing an integrated water and land management program, particularly in the Lower South-East, where there is a whole plethora of problems emanating out of competitive land use, and competitive land use for the water resources that exist there.

On the weekend I was approached by some very irate landowners and townspeople from a particular area in the South-East, which I will not identify, because part of the problem is that the competitive land use issue is bringing into play problems associated with individuals and competing companies. The individuals who approached me indicated that, because of the dry weather conditions in the South-East and the slow replenishment of the underground aquifers that are being identified by the drying up of natural water courses including the Blue Lake, the Valley Lake, Lake Leak, I am told—and I have not seen Lake Leak, but I am told that Lake Leak and Lake Edward are very low—problems are starting to develop with—

An honourable member interjecting:

The Hon. T.G. ROBERTS: Lake George is low, but the other two lakes to which I referred are fresh water lakes. The problem that is starting to develop is that, because of the increased use of underground water—and many people in the South-East rely on bore water for drinking on many occasions—people's bores are now being left high and dry and, in some cases, I am told that, to make the flows consistent enough, they would have to drill down perhaps another five metres. It is creating all sorts of problems.

They approached me out of frustration because they know that, as a member of the Opposition, I cannot do much unless I approach the Government for answers. They have approached local members but they have not received the answers that

they require. Their questions relate to the extension of their bores to cover the losses that they say are connected with the drawdown by centre pivots, in particular, and by the dry nature of the year. The cost is particularly onerous because they will have to fork out, in some cases, $1 000, $1 500 and up to $2 000 to extend their bores. My question to the Minister is: how can landowners and townspeople in rural areas affected by aquifer drawdown by legitimate bore water use avail themselves of assistance from Government departments for extending the depth of their bores to bring them back to equilibrium?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister for a reply. As the Minister has a good record in answering questions, I expect that the honourable member will not have to wait until August for the reply. It was a bit of a cheap comment, I thought. I will reinforce the excellent record of the Government in answering questions by providing the answer to a question that the honourable member asked on 9 March on tuna farms. He could at least say, 'Well done'! I am going to read the answer because it is relevant to a motion that is to be moved later today by the Hon. Mr Gilfillan. If I incorporated it into *Hansard* without reading it, members would not have the benefit of that advice.

The Hon. M.J. Elliott: You could read it during the debate.

The Hon. DIANA LAIDLAW: I may want another opportunity to address the debate.

The Hon. R.R. Roberts: Double-dipping, are we?

The Hon. DIANA LAIDLAW: No, I am trying not to; that is why I am answering the question now.

The PRESIDENT: Order! If the Minister has completed her first answer, she must seek leave to provide the next answer.

LOUTH BAY TUNA FARMS

The Hon. DIANA LAIDLAW: I seek leave to provide an answer to a question on tuna farms asked by the Hon. Terry Roberts on 9 March.

Leave granted.

The Hon. DIANA LAIDLAW: The Hon. Mr Roberts asked whether I was aware of any development application granted to the Tuna Boat Owners Association for a site upon which tuna farms are currently located. My answer is as follows: I am advised by the Development Assessment Commission that the tuna farms that have been established in the Louth Bay area do not have development approval.

The honourable member asked whether I accepted under Part 2 Division 1 of the Development Act 1993 that the actions of the Tuna Boat Owners Association constituted a breach of the Act. I advise as follows:

The appropriate section of the Development Act is Part 4 Division 1. Section 32 of the Act states that no development may be undertaken unless the development is an approved development. The Tuna Boat Owners Association itself has not established the tuna farms that are referred to. The farms, generally called pontoons, have been established by six separate tuna fishing companies. I am advised that each of these companies is a member of the association. The Development Assessment Commission, which is the relevant authority for development outside of council areas, has concluded that the pontoons have been established without approval and accordingly are in breach of the Development Act.

The Development Assessment Commission has written to each of the companies seeking a written undertaking that the pontoons will be moved to an approved site by 6 April 1999. If the undertaking was not provided by 22 March 1999 then the commission would make application to the Environment, Resources and Development Court for an order for the removal of the pontoons as expeditiously as possible. If the undertaking was given and the pontoons not moved by 6 April, the commission would also make application to the court. Each company has now provided a written undertaking that the pontoons will be removed by 6 April.

In a separate matter, the Tuna Boat Owners Association has applied to the commission for approval to establish six sites for the holding of tuna east of Rabbit Island near Louth Bay. The commission conducted a hearing of representations on 11 March and is likely to make its decision on 25 March (tomorrow). Following the 11 March meeting the Tuna Boat Owners Association amended its applications to reduce the number of pontoons at each site from 11 to seven.

In relation to the third question—'Given the recent decision by the ERD court to gaol a person who continued breaches of the Development Act 1993, does the Minister accept that there has been an equal application of the penalties under the Act for both of these cases?'—I advise the following. In the case cited, involving a resident of the City of Port Adelaide Enfield, the court has imposed the penalty. In the case of the tuna pontoons the commission has not made application to the court so I am unable to provide an answer to the question. In any event it would be inappropriate for me to comment on any penalty that the court imposed. The aim of the commission is to have the pontoons moved to an approved site, and its actions are designed to achieve this without the need to make an application to the court.

ELECTRICITY, PRIVATISATION

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

Leave granted.

The Hon. L.H. DAVIS: Recently I watched with some interest the *Today Tonight* great debate on ETSA, and I was so interested that I obtained a transcript which included the following exchange:

McClusky: Kevin Foley, if the Opposition was to get into Government, would you make the promise that the Opposition who have so vehemently fought against this, would rescind that tax? Would you do that?

Kevin Foley: Well what I want to say Leigh is that this tax. . .

McClusky: But yes or no?

Kevin Foley: No. (much laughter). This is a very vicious tax and I will repeal that tax at the earliest opportunity that I have. . .

McClusky: So that's a yes?

Kevin Foley: No, this tax. . . Leigh, this tax is designed, it runs out in the first year of the next Government. . .

McClusky: Let me be clear on this. Are you saying yes or no?

Kevin Foley: What I'm. . .

McClusky: If you get into power, the day you get into power, you say right, the tax is gone?

Kevin Foley: No, it won't go in the first day I get into power. What I will do is look at the mess that is left by the Olsen Government and I will review that tax. . . and I will. . .

McClusky: Mr Foley, with due respect, 'at the earliest opportunity' has people sitting here going 'oh yeah, when it suits him'.

This morning the Hon. Paul Holloway responded to an article which I had written and which was published in the *Advertiser* yesterday. The *Advertiser* had made space

available for the Hon. Mike Rann to respond, and there were five questions specifically directed in that article for him to answer. However, the answers came not from the Hon. Mike Rann but the Hon. Paul Holloway in an article which undoubtedly and according to Labor sources was written by Mike Rann's office nevertheless but which did not answer any of the five questions such as—

The Hon. P. Holloway: You have nothing to tell us, Legh Davis, nothing at all.

The PRESIDENT: Order!

The Hon. L.H. DAVIS: So you didn't consider those answers were important?

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: The Hon. Paul Holloway, the Labor Party's financial spokesperson, is saying that there was nothing important in the question, 'Does he [Mike Rann] believe the reduction of State debt is important and will he detail how he proposes to reduce State debt and by how much?' None of the questions were answered. The third point I want to make is that in the article ghosted for the Hon. Paul Holloway—ghost writers in the sky—

The Hon. P. HOLLOWAY: I rise on a point of order, Mr President.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: No, I'm not stung by criticism, Mr President: I am stung by statements made by the Hon. Legh Davis which are unparliamentary and untrue and I ask him to withdraw them.

The PRESIDENT: There is no point of order. I would ask the Hon. Legh Davis not to debate the issue but to give a background to his question.

The Hon. L.H. DAVIS: I should advise the Council, in response to what the Hon. Paul Holloway said, that in fact members of the Labor Party told me that the Hon. Mike Rann's office did write that article and that it has been ghosted for the Hon. Paul Holloway. That article, which appeared under Mr Holloway's by-line, stated:

> Torrens Island has been in need of a $100 million upgrade for some years, but this has been delayed.

That has the implication that the State Government would be required to spend that $100 million to upgrade Torrens Island Power Station. My questions to the Treasurer are:

1. The Treasurer was at the *Today Tonight* great debate. Could he say whether he understood what Mr Kevin Foley was trying to say about what the Labor Government would or would not do about the recently imposed surcharge?

2. What will be the impact on the State budget, and indeed on the ETSA balance sheet and profit and loss account, if $100 million did have to be spent on Torrens Island Power Station, as suggested by the Hon. Paul Holloway, if the privatisation of that asset did not proceed?

3. As the Hon. Mike Rann, through his spokesman the Hon. Paul Holloway, refused to answer any of the five important questions posed in the *Advertiser* yesterday, can the Treasurer advise whether he is aware of any Labor Party policy which has been published by the Hon. Mike Rann or the Hon. Paul Holloway in relation to the Labor Party's plan to reduce debt in this State?

The Hon. R.I. LUCAS: I will respond to the second question first. I must admit that I am shocked to hear that this morning's article was not written by the Hon. Mr Holloway but, indeed, was ghosted by Mr Rann and/or his staff. I think that is disappointing.

The Hon. A.J. Redford: I wonder if he submitted a draft. He must have submitted a draft.

The Hon. R.I. LUCAS: Well, perhaps the Hon. Mr Holloway may have corrected the grammar or something afterwards.

Members interjecting:

The PRESIDENT: Order! I think the Treasurer can answer his own questions.

The Hon. R.I. LUCAS: If these Labor members are true with the story that they are pushing around Parliament House this morning, then it is disappointing, first, that the Leader of the Opposition was not game enough to answer the questions and put his own name to the story and, secondly, that the Hon. Mr Holloway, if this is indeed the situation, should allow himself to be manipulated by the Hon. Mr Rann and the people within his office—the Hallidays and the Worralls of this world.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It is unusual to see the Hon. Mr Holloway's blood pressure go up—and, clearly, it is a very sensitive point for the Deputy Leader. 'Methinks he doth protest too much.' It is most unlike the Deputy Leader, and I think he is stung by the criticism that he has been manipulated by the ghost writers from the Hon. Mr Rann's office.

More importantly, the point is that confusion reigns within the Labor Party in terms of its policy in relation to ETSA. As the Hon. Mr Davis indicated yesterday, concerns have been raised within the Labor Caucus about this issue—the Labor Party's not having any policy in relation to ETSA. Indeed, the Premier has been saying that for the past six months in the House of Assembly in relation to this issue.

Members interjecting:

The Hon. R.I. LUCAS: Well, if we get the answers from the Hon. Mr Rann and the Hon. Mr Holloway to a few of the questions that we have put, we might trade you. The Hon. Mr Holloway raises by way of his scripted article this morning this notion that, because National Power will be a strong competitor for our existing generator at Torrens Island, the Government should be spending $100 million plus—I think the figure is more than the $100 million that the Hon. Mr Holloway is talking about—to repower Torrens Island so that it can compete.

At the same time, the Hon. Mr Holloway, the Hon. Mr Rann and Mr Foley continue to make the claim that the Government will continue to get $30 million or so from the electricity businesses that they are getting by way of dividends into the budget. That is the essence of the claim being made by the Labor Party, the Democrats and a number of other people including economic commentators: that is, there is not this risk to the dividend flow to the budget; we will continue to get the money. That belies the fact of the risks within the national market, anyway. However, if you put that issue to the side for the moment, on the other hand we have the Hon. Mr Holloway saying to us that in some way the existing businesses such as Optima need to find the $100 million to $150 million out of their existing moneys or borrow more to repower Torrens Island or get a capital injection from the Government in the budget to repower Torrens Island so that it can compete with National Power and, indeed, with other generators.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Now you have changed the story. You got on the blower to your staff member to ask, 'Was I right with my interjection?' Now you have changed your interjection within the space of three minutes. Get on the

telephone again to your staff member in Rann's office and ask, 'Was I right with the second interjection?' You might get a third interjection, and you might actually get one of them right.

The hypocrisy of the Labor Party's position is exposed. It says that we will continue to get the money, yet it also says that we or Optima should be spending $100 million to $150 million on repowering Torrens Island. It is impossible to rationalise or reconcile those conflicting arguments. If Torrens Island or Optima has to borrow money or use any retained earnings that it might have, then it has less money which it can pay by way of dividend to the Government.

Does Mr Holloway not understand that it has a lump of money and, if it spends it on capital works, it does not have the money to provide by way of dividend to the budget. That is the sort of nonsense logic that the Hon. Mr Holloway, the Hon. Mr Elliott and others continue to push: that we will continue to get this money by way of dividends from these electricity businesses flowing into our budget, even under this national electricity market. Other than the Labor Party, the Democrats and one or two other economic commentators who have gone public on this issue, no-one believes that particular situation.

In relation to the first question, I was at the *Today Tonight* debate. I think it is fair to say, without going through all the detail and the transcript again, that Mr Foley was mightily embarrassed by the question. He had an inability to answer either 'Yes' or 'No.' In the end it was quite clear that he was not prepared to give a commitment in relation to getting rid of the Rann power bill increase income flow into the budget. That is indeed consistent with the position that the Leader of the Opposition, Mr Rann, has adopted.

The hypocrisy of the Labor position is again exposed. Mr Foley, Mr Rann and Mr Holloway originally were arguing that there was no such thing as the black hole. Mr Foley walked around with the budget papers and said, 'Show me—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, he doesn't. Mr Foley said, 'Here are the budget papers. Where is this black hole that exists in the budget? I asked the Treasurer and he was not able to show me where the black hole was, and there is no black hole.' That was the position of Mr Foley, Mr Rann and Mr Holloway. If there is no black hole, why cannot the Labor Party promise on day one—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Not the tax, but the revenue flow from the Rann power bill increase—

Members interjecting:

The Hon. R.I. LUCAS: Now the story is changing. The Hon. Mr Holloway is now saying that Mr Foley was wrong when he said that there was not a black hole. There is now a difference of opinion between Mr Holloway and Mr Foley and Mr Rann when they said that there was no black hole. Now Mr Holloway says that there is a black hole but that it is now a black hole which is the responsibility of the Government. If there is no black hole, as Mr Foley and Mr Rann said, you will not have to raise the $100 million through the Rann power bill increase.

On day one, if a Labor Government happened to be in office, Mr Rann and Mr Foley could promise to get rid of it. But of course they will not, because they know that there is $100 million worth of teachers, nurses and police whom they would have to sack in the first year of a Labor Government if they did not continue with the Rann power bill increase or, indeed, some equivalent thereof for the years of a Labor Government. That is where the hypocrisy of the Labor Party's argument is exposed in relation to the Rann power bill increase.

WATER LICENCES

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 water licences.

Leave granted.

The Hon. M.J. ELLIOTT: In the Upper South-East on 13 January this year the Government applied a temporary moratorium of one year on the granting of water licences. At that time, the Government said that it would allow applications for special water licences and that applications would close on 31 March. Prior to the closure of those applications (in fact, at that stage many people still had not submitted their applications), the Government granted one water licence to a company by the name of Kangaringa. The Government has given approval for 200 hectares worth of water. The effect of this grant of a licence is to reduce the watertable by a very significant extent.

As I understand it, this property has about 80 hectares under irrigation with a centre pivot, but since it is about to be planted with olives the demand for water will be far greater than was previously applied to crops by the centre pivot. Of course, even that centre pivot was applied only to 80 hectares. It does beg a significant question as to how, before applications had closed, one property which did not have pre-existing rights except for 80 hectares was granted a permit for 200 hectares. My questions to the Minister are:

1. Why was a special exemption apparently applied to this one property without existing rights when other people with existing rights had not even made their applications as yet and when there was no potential idea to know what the implications of such a grant would be?

2. Was the Minister personally aware of such a grant by the EPA?

3. Was the Minister in any way involved in the granting of that licence?

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

PRODUCT TAKE-BACK

In reply to **Hon. T. CROTHERS** (9 December 1998).

The Hon. DIANA LAIDLAW: The Minister for Environment and Heritage has provided the following information.

1. National initiatives such as the development of voluntary industry waste reduction agreements for recyclable materials, which commit industries to reducing and recycling their packaging wastes, and national targets for waste diversion from landfill, have been pursued in Australia since 1990.

The new 'National Packaging Covenant' under development between Government and industry is aimed at addressing a number of issues to improve the recycling situation by underpinning the collection and marketing of recyclable packaging materials. This is a component of the development of a national approach to the packaging waste problem.

The Minister for Environment and Heritage is cautious regarding the optimism shown by others in relation to the developing of the covenant. It has been a very difficult process to undertake. The approach fits well conceptually with the need for a shared responsibility to the problem of waste management. The intention is to have it underpinned by regulatory measures in the National Environment Protection measures and used packaging—property under consideration nationally.

There remains more work to be done on both the covenant and the legislative safety net.

South Australia continues to benefit from container deposit legislation, which is essentially a take-back mechanism for certain packaging. No other State in Australia has the privately run drop off centres we have in South Australia.

As a result, South Australians recover for recycling and re-use 83 per cent of their glass beverage containers, 73 per cent of PET beverage containers and 84 per cent of aluminium cans; well above the national average.

2. Although we have sufficient landfill capacity presently, this position could change within the next few years. There is a need to review Adelaide's landfill capacity and develop plans for the future. A landfill to the north of Adelaide was recently approved by the Governor, after an extensive Environmental Impact Statement. Other landfill applications await a decision. Extensions to existing landfills are also under consideration.

The Environment Protection Agency (EPA) has tightened controls on waste disposal operations and any new landfill must meet strict criteria. These criteria are set out in 'Guidelines for Major Solid Waste Landfill Depots' recently published by the EPA.

3. I refer the honourable member to the Minister for Environment and Heritage's response in 2. above, and in relation to the introduction of product take-back laws the Minister for Environment and Heritage has been advised by the EPA that reducing waste to landfill requires a strategic approach which considers all the components of the waste stream and a wide range of management measures and initiatives, not just packaging.

AUSMELT TECHNOLOGY

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, Natural Resources and Regional Development, a question about the Ausmelt technology plant.

Leave granted.

The Hon. J.F. STEFANI: A recent article in the Australian *Financial Review* provided an update of the latest developments in a joint venture to develop a pilot plant at Whyalla to extract pig-iron using the Ausmelt technology. Several years ago the Liberal Government announced an allocation of a substantial grant to assist the equity partners in establishing a pilot plant to test the effectiveness of the Ausmelt technology for future commercial use. I note with interest that the South Australian Government is to contribute 800 million tonnes of iron ore for the testing process. My questions are:

1. What is the total amount in dollar value that the Government has contributed so far towards this project?

2. What is the value in dollar terms of the 800 million tonnes of iron ore to be supplied by the Government, as reported, for the pilot plant at Whyalla?

3. Will the Minister say what long-term benefits may flow to South Australia if the pilot plant is successful and the commercial plant is finally established near Coober Pedy?

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

STUDENTS, DISABILITY EXEMPTIONS

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Disability Services a question about an application to exempt students with a disability under the Disability Discrimination Act from two critical sections of the Education Act.

Leave granted.

The Hon. CARMEL ZOLLO: The Attorney has published a letter explaining that he has applied to the Federal Attorney-General for an exemption under the Disability Discrimination Act for sections 75(3) and 75A of the Education Act to give the Director-General the power to direct students to be enrolled in a special school. In his letter, the Attorney says that this would be done only in the best interests of students and that if parents disagreed they could appeal such decisions to the District Court. This action by the Attorney has been described as unwarranted and mean spirited.

Parents of children with disabilities do not have the time or the resources to fight the Government in the District Court and do not want to be put in a position of being threatened with having their children forced out of a school place if they push too hard for assistance. My questions are as follows:

1. Was the Minister consulted by the Attorney-General, and does the Minister agree with this application?

2. Did the Minister consult with the Minister for Education, and did the Minister for Education agree with the application?

3. How will this action assist children with disabilities and their parents?

The Hon. R.D. LAWSON: The honourable member will know that in 1995, well before my appointment to this portfolio, the South Australian Government applied to the Commonwealth Government for exemption from the provisions of the Disability Discrimination Act of three particular statutes. One of those was the statute referred to, namely, the Education Act, in particular, sections 75 and 75A. The other Acts, as I recall, were the Firearms Act and the Motor Vehicles Act.

The Hon. K.T. Griffin: There was one under the Workers Compensation Act.

The Hon. R.D. LAWSON: Yes. However, the important thing to remember in this context is that the Firearms Act, for example, provides special provisions in relation to persons who suffer from some disability in relation to their capacity to obtain, hold or retain a firearm. Similarly, the Motor Vehicles Act contains provisions relating to the licensing of those with disabilities or other impairments which might affect the capacity of a person to drive on our roads safely.

The Government was roundly criticised by some—and I think most unfairly—for making an application of this kind for exemption from these provisions. Most people in the community would accept that it is entirely appropriate that in provisions such as the Motor Vehicles Act and the Firearms Act there be appropriate mechanisms to ensure public safety. Bear in mind that those statutes contain appropriate protections and appeal mechanisms for anyone who might be affected adversely by any decision of some statutory office holder.

Likewise, in relation to the provisions under the Education Act, there is a right of review of any person who is affected adversely by a decision of the Director-General. Nothing has been brought to my attention which suggests that the Director-General has ever been unsympathetic or inappropriate in the manner in which the discretions vested in him have been exercised in relation to this matter.

The Attorney in his earlier response indicated that this power would only be exercised in the best interests of the child concerned, and nothing has been said by the honourable member (or anyone else so far as I can see) to suggest that the Director-General has exercised that power otherwise than in accordance with the best interests of the child and the family concerned. The honourable member's question was: was I consulted? Obviously, I was not consulted because I did not have the responsibility for this portfolio. I am not entirely

sure whether, at that stage, there was indeed a Minister with specific responsibility for disability services.

The Hon. K.T. Griffin: All Ministers at that time were consulted.

The Hon. R.D. LAWSON: The Disability Discrimination Act and Commonwealth-State relations are generally the ministerial responsibility of the Attorney, and I am sure that on this occasion the Attorney consulted his ministerial colleagues when the application was made. There has been criticism by Mr Maurice Corcoran, who is Chair of Disability Action Inc. Mr Corcoran is also the Chair of the Disability Advisory Council, a council whose advice I respect and a body upon which I as Minister rely. In the *Advertiser* earlier this month the Attorney has put his position and the Government's position in relation to the Education Act. I really have nothing to add to what the Attorney said on that occasion.

ELDER CONSERVATORIUM AND FLINDERS STREET SCHOOL OF MUSIC

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for the Arts questions regarding cuts to the Elder Conservatorium and Flinders Street School of Music.

Leave granted.

The Hon. T.G. CAMERON: Music education has been a cornerstone of arts education in South Australia. The Elder Conservatorium celebrated its one hundredth anniversary last year, and its legacy can be traced through the State's vibrant musical history. Whilst the past may be glorious, at this time the future looks bleak for music in the Festival State. South Australia's two leading tertiary music education schools, the Elder Conservatorium and the Flinders Street School of Music, are straining under large deficits caused by funding cuts. A recent media report stated that the Elder Conservatorium is operating with a deficit of $50 000—

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: It is all right, Mr President, I do not need your protection. The University of Adelaide's Vice-Chancellor, Professor Mary O'Kane, was reported as saying that the university will have to pursue other forms of revenue for music to survive, either by sponsorship from the private sector or through fee paying students. If that strategy does not work, Professor O'Kane believes that the university may as well close. The Flinders Street School of Music is also having financial problems. It finished last year with a $450 000 deficit, which has increased to $540 000 following a further $90 000 cut to its operating budget this year. Three full-time staff accepted packages after funding cuts in May last year, and the school may have to lose another full-time member this year. The school's head, Mr Richard Hornung, says that the deficit is the result of State Government cuts across the TAFE system, that the situation at Flinders Street is now critical and that the foreshadowed cuts for the year 2000 could be crippling.

In May last year the State Government announced a plan to establish a national music institute in Adelaide under the umbrella of the Elder Conservatorium, Flinders Street and the Adelaide Symphony Orchestra. A report was commissioned on the feasibility of the move and handed to the State Government in August, but nothing more has been heard. My questions to the Minister are:

1. Will the Minister give an unequivocal guarantee that both the Elder Conservatorium and the Flinders Street School of Music will not close next year as a result of funding deficits?

2. Will the Minister also guarantee that funding will be made available in this year's State budget to ensure that our two leading tertiary music education schools continue to provide excellent music education for South Australians?

3. What were the recommendations of the feasibility study into the establishment of a national music institute in Adelaide and will they be implemented? If not, why not?

The Hon. DIANA LAIDLAW: I want to commend the honourable member for what I think is his first question ever on the subject of the arts, or at least the first one that aims to be remotely positive in terms of the value of the arts to this State. I would like to suggest that a little more research could have been undertaken but I know that, when he is trying to represent every portfolio diligently and be spokesperson on everything for SA First, it is not necessarily possible to do perhaps all the research that is required. The Elder Conservatorium is totally funded by Adelaide University. It receives its funds from the Federal Government. I think about 49 per cent of the university funds come from the Federal Government and the rest from other sources. Certainly, if the honourable member wishes, I can forward his questions and the unequivocal guarantees that he seeks in terms of funding for the Elder Conservatorium to the Vice-Chancellor for reply. He may wish to pursue those matters with the Vice-Chancellor herself, but perhaps he can give an indication.

In terms of the budget situation for Flinders Street School of Music, I will refer those matters to the Minister for Education, because Flinders Street and TAFE generally are funded through the education budget, not the arts budget. In terms of the report to which the honourable member refers, that arose from a memorandum of understanding signed by me, the Minister for Education, the University of Adelaide and the Chairman of the Adelaide Symphony Orchestra, Mr John Uhrig. The report was received late last year. It has been the source of discussion principally between Flinders Street School of Music and the University of Adelaide because it is quite apparent—and this was identified in the report—that there would be benefit from closer relations between Elder Conservatorium and the Flinders Street School of Music. However, there are some really big industrial award issues—wages issues and student ratio issues—which not only are big but they are very sensitive to both institutions.

I have never become involved in education politics, but those who are would identify that it is hard to get people to discuss these things. So I have simply left it, as I should, to the Vice-Chancellor of the University of Adelaide, the Education Department and Flinders Street School of Music. I can say that Arts SA has offered $10 000 to Adelaide University to progress some of the other issues that would be important for the establishment of a national institute. At this stage, the university has not seen fit to devote the money that we have offered to the task that has been identified—

The Hon. T.G. Cameron: Why not?

The Hon. DIANA LAIDLAW: Because the university moves slowly, I think is probably the best way to—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: Well, it may have money to pour into the Adelaide City Council election, but I am saying that I think the Vice-Chancellor is particularly keen to see that this initiative occurs. My understanding is that the issue may well have been referred by the Vice-Chancellor to Professor Judith Brine who has been understandably distracted by council and other duties and this initiative, which the

Vice-Chancellor and I would like moved faster, is moving uncharacteristically slowly even for the university. That is a very important issue for music education in this State.

In the meantime, our goal was to occupy, if we were able—and according to the agenda of the Federal Government—the building at the Torrens Parade Ground. The honourable member would know that that building is still owned by the Federal Government, and there has been no indication of its being returned to the State—nor, if so, when.

So, this proposal from the national institute must be advanced on several grounds. The important one is to bring these two music institutions together, if they are willing to come together. The reasons for them to do so have been well identified in the report. The occupancy of the building by this institute, including the Adelaide Symphony Orchestra, is hard to advance when the building is not in one's ownership. It is certainly an interesting prospect that would work (and that has been identified in the report), but it cannot be advanced at this stage without ownership.

DRUG COURTS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Attorney-General a question about drug courts.

Leave granted.

The Hon. CAROLINE SCHAEFER: There has been quite a bit of—

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLINE SCHAEFER: —publicity about drug courts, which are being used interstate and overseas as a means to help rehabilitate drug addicted defendants charged with minor offences and to divert them out of the criminal justice system. To what extent is the State Government researching this concept to determine whether it would be viable in this State?

The Hon. K.T. GRIFFIN: There are many issues that surround the use of illegal drugs and crime and, as the Premier has already indicated in a couple of ministerial statements and public comment, the Government is looking closely at a number of these issues across the spectrum. Of course, the justice system is at the tail end of any drug abuse where crimes may have been committed but, nevertheless, it plays an important role in endeavouring to deal with those who may be dependent on drugs and who may have also committed criminal acts. Across the justice system there is a concerted effort to endeavour to coordinate activities to ensure that the best possible outcomes are achieved.

In the Attorney-General's Department there is a Justice Strategy Unit and there is also the Office of Crime Statistics, both of which have a keen interest in obtaining information and analysing it in respect of a whole range of issues related to drugs and crime. The Justice Strategy Unit is, in fact, looking at the rate of imprisonment of those addicted to drugs and, as alternatives to traditional criminal justice measures for dealing with addicts, it is looking at the concept of drug courts and the pilot drug court in New South Wales.

I think that when one talks about drug courts one has to be conscious that there are different types of drug courts. They can, and do, vary widely from one jurisdiction to the next. In the United States, for example, it has been estimated that there are over 200 drug courts and they all work differently, even though they share common aims—and I will come back to that in a moment. One of the principal aims is to do something more constructive than impose imprisonment on offenders who commit crimes to feed their addiction and, instead, to order them to attend rehabilitation programs. In some of these court systems, if the orders are not followed, a suspended sentence of imprisonment can be invoked.

It is worth noting that in South Australia we have had for a long time—since 1985—Australia's only pre-trial court diversionary program for people who are charged with simple possession offences under the Controlled Substances Act. People who are charged with simple possession of substances such as heroin, amphetamines, LSD or Ecstasy must be referred to the Drug Assessment and Aid Panel by the police. The defendant is then interviewed by the panel to determine whether they are suitable to undertake a program with the panel. If unsuitable, the matter will be dealt with by the criminal justice system.

People who are suitable for the program will enter into an undertaking to meet certain conditions over a six month period, including regularly appearing before the panel, meeting with the panel's counsellor and notifying the panel of any change of address. The aim is to provide the panel's client with health education to help the client make lifestyle changes. As well as providing information, the panel's counsellor may assist in effecting changes, such as a change in accommodation, to help the client lead a better lifestyle. If at the end of six months the client has satisfied the undertaking, the panel will sign a document to the effect that prosecution for the possession charge should not proceed. If that has been unsuccessful, the prosecution will go ahead. The panel sees about 16 new and existing clients each week and has been in operation since, as I said, 1985. The majority of clients satisfactorily complete their undertakings—and that is a very important outcome to note.

Programs similar to drug courts which also are being examined by the Justice Strategy Unit and other parts of my agency include police intervention schemes in the United Kingdom, in which intervention occurs at the time of arrest and drug counsellors are employed in police stations to work with problem users as they pass through the criminal justice system; and the Victorian bail scheme, in which drug rehabilitation is offered as part of the bail process if the defendant has been charged with a non-violent indictable offence, such as possession or use of a drug of dependence, and if he or she has a demonstrable drug problem.

A number of approaches can be used in the criminal justice system to divert drug users from crime and to encourage rehabilitation. Of course, achieving such goals is of benefit not just to the defendant but also to the wider community because, obviously, it will assist in creating a safer community, it will avoid possible tragic consequences for the families involved—those of both the victim and the offender—as well as savings and all the other many associated costs—police time, court process, health services and correctional services.

We are diligently looking at a number of issues, some of which include the problem of drugs and crime, and certainly as many options as possible, so that we can more effectively deal with the issue. But it is important, in the context of drug courts, not to get locked into seeing drug courts as only a one strand strategy. It is very important to recognise that they have to be part of a broader coordinated program, that they are resource intensive and that, in the longer term, emphasis also has to be placed on early intervention to provide an environment in which young people, in particular, do not in

the first place resort to the use of drugs of dependence. But the strategies have to go hand in hand.

The United States Government Accounting Office surveyed all drug courts in 1997. It found, for example, that 44 per cent defer prosecution entirely, but that 38 per cent require a plea of guilty and then they withhold the sentence. The eligibility criteria vary widely. For example, 78 per cent of US programs accept repeat offenders; most do not accept those charged with drug trafficking offences, but some do; and most do not accept those with a past history of violent offending, but 16 per cent do. Those kinds of variations indicate that any reform in this State will have to be based on careful research, evaluation and a sound assessment of the needs of the South Australian community.

The other point to recognise is that in the United States there is a somewhat different approach to the courts than in Australia because, with the drug court program in the United States, the judge becomes in effect the leader of the drug court team and maintains an active supervising relationship with each offender. That is a departure from the traditional Anglo-Australian judicial role where the court adjudicates on the case presented by the prosecutor and the response by the defendant. Traditionally, when a matter has been resolved by a court, the defendant if convicted will not return to the court unless there is a subsequent breach of a bond or the defendant re-offends. Even in those circumstances the defendant may not appear to return to that same judicial officer. Any enforcement of a court order in our system and supervision is generally undertaken by the Executive and not by the court.

Drug courts, at least in the United States, require judges to step beyond their traditionally independent and objective arbiter roles and develop new expertise. That is not an argument to say it should not be done, but it points out that things are not as simple as they may seem. I can confirm, as I have done earlier, to the Council that it is one of the many strategies that the Government is looking at, and it is certainly one of the many strategies even within the criminal justice system that warrants proper consideration and attention, and that is something that the Government is diligently undertaking, but as part of the whole of Government coordinated and cooperative response to this very serious problem.

MATTERS OF INTEREST

INTERNATIONAL WOMEN'S DAY

The Hon. A.J. REDFORD: On Thursday 4 March 1999 I had the opportunity to attend a celebration of International Women's Day hosted by Mrs Shari Liang, wife of Benjamin Liang of the Taipei Economic and Cultural Office. The reception was held at the Mirage Function Centre in Gouger Street, Adelaide, and was attended by Federal, State and local government leaders, some of Adelaide's most prominent business people, leaders of ethnic communities and the Chinese community, and important academic leaders from the Universities of South Australia and Adelaide. Members from both political Parties attended.

We have been celebrating International Women's Day in Adelaide's for decades, the first march occurring in 1972. It was a great occasion to share this event with so many women of Chinese descent. We were also addressed by Mrs Shari Liang. During her speech, and I will quote excerpts from her contribution extensively, she made a number of interesting observations. She referred to the topic of Australian food. She said:

> One day my nine year old son Douglas brought home a bag of snack food and introduced us to the most typical of Australian food, the meat pie. We fell in love with it immediately. We ate the meat pie as our afternoon tea very often until my daughter learned to add tomato sauce to the pie. This year we discovered through our friends from Germany that the meat pie with sauerkraut and Chinese Jasmine tea makes the perfect fit.

She went on to refer to the enormous range of friends that she has made living in multicultural Australia. She referred to the fact that she has made friends from England, Ireland, Italy, Greece, Malaysia, Singapore, the US and Japan. She highlighted the fact that everyone seems to share their food as well as their thoughts, beliefs and interests in the arts. She also referred to Women's Day in Taipei, of which she said:

> On 8 March each year we celebrate Women's Day in Taiwan. On that day women in Taiwan have the privilege of taking a day off and they also get special treatment from their family and the community. I am glad to find that it is an international day for all women around the globe. Women of Taiwan, as in many other countries, devote themselves to advance the goals of equality, development and peace for all women everywhere in the interests of all humanity. This was agreed at the Fourth World Conference on Women sponsored by the United Nations.

She also referred to technology and how it has affected her life and the life of other women in Taipei. She mentioned:

> Nowadays due to advanced information and transportation technology, we can easily communicate with anybody anywhere at anytime. Technology has created a borderless community in cyber world, and I was surprised to find out that in Taiwan women own as many businesses as men on the Internet. There are about 10 million women in Taiwan, which is 48.5 per cent of the total population. Fifty per cent of women aged 24 to 49 are in the work force and 60 per cent of the female work force are college graduates. In addition to their eight hours daily work, women spend 2.5 hours taking care of children, .16 hours looking after the elderly, and .327 hours doing housework. In the 1998 election for the Taipei City Council, 23 per cent of the delegates elected were women.

That is a good achievement. She referred to the effect and the importance of women throughout Asia when she said:

> Country by country all across Asia, the labour force participation rates for women compare favourably with those of Europe. There is a women-led entrepreneurial explosion, women in fashion, women excel in science and technology, women transforming politics, women in government and civil service, women are breaking new ground in Asia. And through the warm friendship in Australia, I have had the chance to network with some of you to learn more about the great contribution that women have made in Australia. Also I have noticed the great effort done by overseas Chinese women in Australia to take care of their family as well as their community needs. Many of the overseas women you will meet tonight are involved in voluntary work in hospitals, senior citizen centres and social welfare activities.

It is terrific to see these Chinese women playing such an important role in Australia, their new home. She went on to refer to the fact that it was the Chinese Year of the Rabbit and she felt that women always have the problem of balancing careers, family and parents. She finalised by saying:

> I wish we could all get the chance to know each other better and share our aspirations and concerns.

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

REPUBLIC

The Hon. CARMEL ZOLLO: I rise to speak in support of Australia becoming a republic. This year, 1999, is the year that Australia could and should decide to become the Republic of Australia, ending our link with the British monarchy as the last step in our evolution as a nation. I was interested to read the following comment in her recent message for Commonwealth Day 1999 by the Queen:

> In 1999 we celebrate the fiftieth anniversary of the modern Commonwealth. Fifty years ago, in 1949, India became the first republic with its own head of State to be a member of the Commonwealth. That paved the way to membership for many other countries, especially from Asia and Africa, all sharing links of history, a belief in democracy and a will to work together. Today the Commonwealth includes over a quarter of the world's population, spanning differences in race, creed and language, but sharing the same aspirations towards a better future.

I have found that, when one explains that our system of governance will not change, people become excited at the prospect of Australia being a republic. I believe that many people in our community have purposely been misled as to what is advocated by the Australian Republican Movement and the model adopted by the Constitutional Convention. The model allows for symbolic change for an Australian to be our head of State, in place of the Queen of England.

It is pleasing to see that, for many people, it is a bipartisan issue, as one would expect it to be. A few in the Liberal Party still cringe at the thought of any change as though their very existence depended on Australia maintaining a vestige of its colonial ties. I am pleased to note that the Premier has firmly come out in support of a republic. I hope we would all agree that the head of Government and public advocate for a State or nation need not be another nation's monarchy.

In November this year the people will be asked for a decision. What and how many questions we will be asked will have a great bearing on the result. For a positive outcome, the referendum proposition must be supported by an overall majority of voters and by a majority of States. I agree with the editorial in the *Australian* recently that pointed out how the Constitution rightly confers solely upon the people the power of constitutional change, but it makes change difficult.

I believe it is not the role, subtle or otherwise, of this Federal Liberal Government to increase that degree of difficulty. It is incumbent on Prime Minister Howard to keep his promise to let the people decide, and more importantly to keep it short and simple.

Federal Minister Abbott is reported to have said amongst other things earlier this year: 'Australians won't vote for a republic involving too much change to be safe but not enough to be exciting.' Perhaps it takes real courage to admit that we all enjoy our system of governance but want an Australian as Head of State rather than a foreigner.

To those republicans who want to see an elected President or other than the minimalist model advocated by the ARM and in the end adopted by the February 1988 Constitutional Convention, I say to you that if you care to see an Australian as Head of State now is the time to be principled enough to unite behind the ARM. In the words of Malcolm Turnbull, 'You either vote "yes" for symbolically substantial change . . . or you vote "no" to keep the monarchy.' But stop the squabbling. Australians may not be given another chance to have a say for many years to come.

At this time the wording of a preamble is still not settled. I was pleased to read the one proposed by the Labor Party. It would appear, confirmed by today's press, that the Liberal Party its still having trouble with the recognition of Aborigines as the original custodians of the land. I am puzzled, as I would have thought that such comments reflect reality and also reflect the content as agreed by the Constitutional Convention.

I hope the Liberal Party sees its way clear to supporting the wording of a preamble such as the one suggested by the Labor Opposition and I believe the Democrats as well. The success or otherwise of this referendum depends on whether there is a consensus in the wording of the preamble and bipartisan support. I urge everyone to work together and support this important referendum.

LITTLE ATHLETICS

The Hon. J.S.L. DAWKINS: The future of athletics in South Australia is seemingly assured because 900 young athletes participated at the South Australian Little Athletic Sunsmart State Individual Championships on Saturday 20 March and Sunday 21 March 1999 at the Santos Stadium at Mile End. I was pleased to open this event on Saturday on behalf of the Hon. Iain Evans, Minister for Recreation, Sport and Racing.

These young athletes, who ranged from under nine to under 16, will go on to represent South Australia in senior athletics. Some will choose other sports but all will benefit from the friendly rivalry, personal best achievements and fundamental education in running, jumping, balance and coordination delivered through Little Athletic educational programs. All participating athletes received a Sunsmart participation badge and placegetters received medallions, and I was pleased to present some of these.

Almost 2 500 entries were received in 269 events from little athletes representing 46 country and metropolitan centres. Events included sprints, middle distance, long, triple and high jump, discus, shot-put, javelin and walks. The final State selection of 22 boys and girls in the under 13 level and four in the under 15 age group was based on performances at the championships. These athletes will compete at the Australian Little Athletic Teams Championships to be held in Canberra on Saturday 24 April this year.

Many of these athletes will follow in the footsteps of past little athletes such as Melinda Gainsford, Sean Carlin and the many more who have represented their State and country. The role of parents, as in any junior sport, is very important in Little Athletics. I understand that 590 parents acted as coaches, judges and officials during the championships. South Australian Little Athletics is active right across the State, particularly in country areas. Indeed, 26 of its centres are situated outside the metropolitan area. Two new centres were established at Callington and Robe during the current season and further centres are planned for Streaky Bay and Elliston.

I am pleased to inform the Council that as well as its core function the South Australian Little Athletic Association has decided to support children who are not as fortunate as most little athletes. As a result, it decided to raise funds for the Make-a-Wish Foundation. Little Athletic centres throughout the State have wholeheartedly supported this worthwhile cause to raise funds by selling flowers, delivering phone books and a range of other activities.

I was pleased to witness the presentation of a $3 000 donation as a result of this fundraising to Make-a-Wish coordinator, Frank Kackowick, by Little Athletic Managing

Director, John Crouch. While I understand that Sunday's wet weather caused the championships to be halted earlier than anticipated, there was no doubting the success of the event. I am grateful to Mr Crouch and Little Athletic long-serving Executive Officer, Pamela Sard, for their hospitality.

PARLIAMENT, QUESTION TIME

The Hon. R.R. ROBERTS: I rise to talk about a matter of deep importance to the people of South Australia, that is the conduct of Question Time in the Houses of Parliament, particularly in this one. I have become increasingly concerned over the past three or four months about the conduct of Question Time in the Legislative Council. Ever since I have been a member of this place Question Time has been deemed to be an opportunity for backbenchers and members of the Opposition to question the Government.

What has happened—and I do not know whether it is by deliberate ploy or whether it has just crept in, but I suspect it is by deliberate ploy—is that we have seen continually, on almost every day, that the process is suss. We have the three questions along the front and then a question generally from the Hon. Legh Davis—a long and tortuous explanation full of opinion, debating material and comments such as 'I want to make another point, Mr President', which is completely out of order and about matters such as ETSA.

At least 50 per cent of Question Time each day is being wasted on Dorothy Dix questions led by Legh Davis or the Treasurer. This is occurring despite the fact that items Nos 2, 3 and 4 on the Notice Paper have been adjourned by Government motion for the past three or four months, and every one of these Dorothy Dix questions has a subject matter that would properly be canvassed within these Bills.

As I understand Standing Orders, when there are matters before the Council in a Bill they are not supposed to be canvassed anywhere else, but this Government has continually flaunted the conventions of this Parliament by raising these matters by way of questions. It is not game to trot out the Bills. Other people have wanted to ask serious and important questions for days and do not get an opportunity. For the past two or three days one question from the Opposition backbench and one from either a Democrat—

The Hon. A.J. REDFORD: I rise on a point of order, Mr Acting President. The honourable member is referring to Question Time and the conduct of this place in relation to Question Time, and by implication he is impugning the way the President deals with the conduct of Question Time. I note that the honourable member has not at any stage sought to raise a point of order on this issue during the course of Question Time and I would ask that you, Mr Acting President, rule his comments out of order in relation to this.

The ACTING PRESIDENT (Hon. T. Crothers): I missed the comments but I draw the honourable member's attention, as he did himself in his point of order, to the conventions of this place, and that is that he must not, because the opportunity exists to challenge any ruling of the President under our Standing Orders, impugn the good name and good office of the President of the Council. I did not hear what he said. I understand the implication, though, of the point of order raised by the Hon. Mr Redford, and I think there was a bit of that in it, although I do not think it was deliberate. However, I would ask the Hon. Ron Roberts to ensure that he addresses the matter that has been raised by the Hon. Mr Redford with a view to rectifying it.

The Hon. R.R. ROBERTS: Thank you for your wise counsel, Mr Acting President. I assure the Council that I have no disrespect for the President. My remarks are aimed directly at the Government.

The next little ploy is that it generally goes question after question with a dorothy dixer. Every day, the Hon. Julian Stefani, obviously stung into action by the report cards each year that he makes the least number of contributions, asks dorothy dixer questions generally of the Minister for Transport and Urban Planning or the Minister for Disability Services. Then we have the Hon. Mr Dawkins, who often throws in the dorothy dixer question, and we have all seen the charade with the written answer in front of us. This takes away the opportunities for Opposition members to make a contribution.

I believe the Government ought to have the power to control the Parliament. It is a privilege which Governments ought to have, but privilege only goes with responsibility, and this Government for months has been abusing the conventions of this Parliament—which you, Sir, so rightly referred to in your ruling. The conventions of Parliament are extremely important for the efficient running of the Parliament.

Whatever responsibility is being exercised, I do not wish to take away the ability of the Government to control the Council. This Government cannot count when it comes to the budget, but I invite Government members to do this exercise: if they continually waste the time of the Parliament and deny Opposition members the opportunity to make a contribution, they ought to count the Opposition and Independent numbers in this Council.

The Hon. Mr Elliott yesterday, in an ejaculation of frustration, called an honourable member a name which I am not allowed to mention, but that is indicative of what happens with these continual abuses. When we resume after the break, if these practices do not desist and when the Government loses the debate on ETSA, we may well have to consider moving for an extension of Question Time by 30 minutes. I invite the Government to count the numbers and contemplate my proposition.

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

BIRDS

The Hon. L.H. DAVIS: The South Australian Ornithological Association (SAOA) recently celebrated its centenary on 17 March 1999. The association is the oldest bird club in Australia and has had a long history of promoting the conservation of birds in this State and lobbying politicians to protect habitat and to enact legislation to protect certain species of birds that were of major conservation concern.

In fact, South Australia was one of the first States to enact legislation to protect some of our unique birds. We owe organisations such as the SAOA a debt of gratitude for their foresight and commitment, and I commend and congratulate the association on its centenary. On the occasion of this association's centenary, as we enter the twenty-first century, I wish briefly to review our performance in protecting and conserving this State's birds.

As politicians, we choose measures or statistics that are favourable to our public image. Thus, in this State we would probably quote the area of land that we have set aside for wildlife conservation. Relative to other States, our performance is impressive, but simply setting land aside may not be sufficient.

Following the Second World War, a further burst of vegetation clearance was encouraged by Governments before a Vegetation Clearance Act was enacted to help protect some of the remaining vegetation. By this time, more than 90 per cent of the original native vegetation had been cleared from the agricultural areas of the State. The new habitats that developed in these areas, mainly grasslands and pastures with scattered trees, certainly favoured some species such as galahs, white cockatoos and corellas, which have expanded their distribution and are now so abundant in some areas that they are pests.

But the many other types of birds that once occupied the native woodlands that have been so extensively cleared have suffered substantial declines in numbers and are still declining. Only 10 per cent of the original native vegetation that clothed the agricultural areas of South Australia now exists, and this is fragmented and degraded and found mainly in areas that are poor for agriculture: rocky ridges, steep gorges, or on poor quality sands.

Most wildlife populations have suffered comparable reductions, if not greater reductions, in abundance. The rapidity of the declines are unprecedented and a range of species that were once common in South Australia are now locally extinct or close to it. Species such as the king quail, azure kingfisher, brown quail, southern stone curlew, spotted quail thrush, swift parrot and regent honeyeaters are no longer found in the areas that they once occupied around Adelaide and the adjacent ranges.

But these are not the only birds that have declined in number: many of the species that were once common in the original woodlands continue to decline and have disappeared from the areas that they once occupied. Black-chinned honeyeaters were once common along the Torrens, and one of the delights of watching cricket at Adelaide Oval was to hear their garrulous calls in nearby trees along the Torrens. But their numbers have continued to decline, even in recent years. Once common at Belair Recreation Park, they are no longer recorded there. Similar declines are recorded for this species from other parks in the Mount Lofty Ranges over the past decade. In fact, the latest estimate of the numbers remaining through the Mount Lofty Ranges is now fewer than 100 individuals.

Brown treecreepers were also once common at Belair, but on last reports only a single male bird remains. Many other woodland inhabiting species are also declining in number, including species such as hooded robins, scarlet robins, jack winters, southern emu wrens, diamond firetails, crested shrike tits, rufous whistlers and restless flycatchers.

Increased predation by possums is a major reason for glossy black cockatoo numbers being kept low, and when that was found predation was controlled by using tin around the bases of trees, when the breeding success jumped significantly. But, for most of the other species we do not know the factors that are causing the declines. They are undoubtedly linked to extensive vegetation clearance and fragmentation of populations. Such fragmentation often leads to reduced dispersal opportunities, increased predation and increased habitat degradation. Edge effects are common. Governments are currently, I understand, reluctant to fund any research and, sadly, what research is done is limited to a few icon and/or threatened species.

Our reserve systems have clearly failed these birds and probably many other forms of wildlife. This is perhaps because these areas are not the best quality areas for them; perhaps because we have failed to implement effective management of pests—cats, foxes, rabbits—or control the incursion of weeds; or perhaps the fauna can no longer move across the landscape because the intervening habitats no longer allow safe travel. Damming of creeks, changes in watertable and continued overgrazing of natural habitats by both native and introduced fauna continue to erode the quality of the reserve systems we have set aside for perpetuity.

These concerns are not limited to woodland systems. Just look at recent concerns about massive declines in the number of water birds and migratory shore birds in the estuarine areas of the northern Coorong and threats of closure of the Murray Mouth—all undoubtedly linked to the massive reductions in the quantities of water that flow to the mouth.

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

OLYMPIC GAMES

The Hon. T.G. ROBERTS: I speak on a very topical subject at the moment, that is, the way in which the Olympic committee has been brought into disrepute internationally and how the Olympic Games movement is suffering from the twin problems of administrative incorrectness and drug abuse amongst athletes.

To the outsider or the average person in the street, the Olympic Games movement is looking like an elitist sport that is affordable only by those rich nations which can compete. One of the estimates for the cost of a gold medal in some developed countries is around $50 million. We have seen a history of Americans being able to subsidise their athletes by college scholarships, by paying almost a 'shamateurism' form of keeping professional athletes as amateurs.

The Eastern Bloc nations had been able (and I am not sure whether this is still the case) to do almost the same thing by financing their athletes through military service, academic service and, again, by scholarships into universities and training. Those sorts of benefits are not available to poorer nations, nor are they available to some of our smaller developed nations. Consequently, when the athletes march around the Olympic Games athletic track at the start of the Olympic Games, the size of the delegations is proportional, generally, to the financial status of those nations. Some countries cannot afford to send any athletes, although they do have athletes who can compete internationally in terms of having reasonable times. Those athletes have to finance themselves.

One way in which the International Olympic Committee and the Australian Olympic Committee can get back to some of the original themes of the Olympic Games, that is, broader participation and a little more strictness in relation to preventing drug cheats, is to scale down the cost of the games to competing nations. The other cost that is unbearable for smaller and developing nations is that involved in putting together a Games bid—unless you have the ability to bribe, it appears, some of the IOC committee members.

One way in which the Olympic theme can be brought back in Australia is for Australia to invite athletes of all persuasions from those smaller or impoverished nations or those who have been caught either in war or pestilence in recent times into regional areas of Australia to participate in coaching programs using our professional coaches and resources.

It would enable ordinary people to participate, to meet people from third world and developing nations, to form relationships and to cut the costs of those nations' athletes.

They may not be able to compete at Olympic level because of their times and their abilities in relation to putting together good teams to compete with other nations, but it would forge links with Australia and other nations in presenting what would be regarded as a simpler example of goodwill amongst athletes and individuals within these developing nations.

NATIONAL PARKS

The Hon. M.J. ELLIOTT: I refer to the roles of national parks. I note that the Hon. Mr Davis referred to declining numbers of birds. Integral to any plan to make sure that bird populations are intact is to ensure that we have a conservation strategy that addresses the role of national parks properly. Unfortunately, in this State the Government does not have a policy in relation to parks other than that, if someone has an idea that might make a dollar in a park, one should go for it. It is proposed that in Belair National Park, one of the few areas of remnant vegetation in the Mount Lofty Ranges, a 300 seat convention centre, close to 100 cabins and various other parts of what is now a resort development, be placed—

The Hon. R.I. Lucas: It is on the same footprint.

The Hon. M.J. ELLIOTT: No, it is not on the same footprint. You are ignorant of it because it is not on the same footprint. I have actually seen the maps. It extends beyond the current footprint and goes into areas which although degraded—

The Hon. R.I. Lucas: Speak to the local member.

The Hon. M.J. ELLIOTT: The present local member. Although degraded, those areas still have their upper storey intact. In fact, those people who are familiar with Belair National Park will know that there are other areas in the western part of the park, the lower, flat areas, which were degraded but which have been revegetated. That is a really hard job to do, but it has been done. In those cases, the upper storey was intact, but due to grazing in years long past the understorey had been degraded. It is now almost impossible to pick some of those areas that have been restored. The Government intends to alienate it, and it has nothing to do with the national park. When one reads the objectives of management of a national park, one finds absolutely nothing about putting resorts, 300 seat convention centres or 80 to 100 cabins in national parks. The people who will stay there will use it as a resort—not as a national park.

The Government also wants to utilise Yumbarra. But does it look at utilising Yumbarra as part of an integrated strategy in relation to national parks? No. The questions asked about Yumbarra are narrowly confined to, 'Can we or can we not go in to investigate and, presumably, to mine?' What is particularly interesting is a document written by Ric Horn, former Director of Minerals, on the subject of Yumbarra, in which he states:

> Government and the mining industry must recognise that there are areas of the State which are 'No-Go' areas, i.e., areas which should be, or could be, reserved for all times. We preach economically sustainable development and yet we are now seeking to open up the entire Yumbarra Park for mineral exploration and development. Why not go for all parks and reserves being accessible, even Belair Recreation Park—

well, he did not know at that stage, did he—

> or the entire Flinders Ranges National Park? The purpose of attempting to have a portion of Yumbarra reproclaimed was to allow us to trade-off against other parks where we desire access. MESA must be prepared to give areas to the reserve system if we are to gain access to the more prospective areas of parks.

By the way, this letter says that Yumbarra is nowhere near as prospective as has been claimed in this place on several occasions. We are also aware that the Government—and the previous Government for that matter, or at least its Department of Mines—has been looking very closely at the Flinders Ranges National Park because traces of zinc and lead mineralisations have been found adjacent to that park as well. At the end of the day—

An honourable member interjecting:

The Hon. M.J. ELLIOTT: It is not about jobs. Take what is happening in Belair National Park. I do not mind developers buying their own land and developing it; but they have no right to go into what is a public park which is committed in the first instance to preserving wildlife—

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: You'd sell your grandmother for her teeth. Nobody would treat you seriously on this at all. You would dig her up looking for the gold in her teeth; in fact, I would be very surprised if you hadn't asked for the miner's right.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: I'm not as silly as you. The objectives of our parks are preservation and management of wildlife; preservation of historic sites, objects, constructions of historic and scientific interest; preservation of features geographical, natural or scenic; destruction of dangerous weeds; control of vermin; control and eradication of diseases; and prevention and suppression of bushfires. Nowhere in the National Parks and Wildlife Act will one find anything which says that national parks are there for building luxury resorts. Nowhere does it say that national parks are—

The PRESIDENT: Order! The Hon. Mr Elliott's time has expired.

GAMBLING INDUSTRY REGULATION BILL

The Hon. NICK XENOPHON obtained leave and introduced a Bill for an Act to reform and regulate certain aspects of the gambling industry; to amend the Gaming Machines Act 1992 and the Casino Act 1997; to provide for the removal of gaming machines from hotels within five years; and for other purposes. Read a first time.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: FISH STOCKS

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

That the thirty-first report of the committee, on fish stocks of inland waters, be noted.

The committee was instructed by the House of Assembly to investigate and report on the environmental impact of commercial and recreational fishing on the native fish stocks of inland waters. The inquiry took place over some six months. Ninety submissions were received and 24 witnesses appeared before the committee during this time. The committee had a site inspection to the Riverland region to visit wetlands at Loveday and also Pilby Creek, which is part of the Bookmark Biosphere Reserve. We also visited Nildottie and Walker Flat. This enabled the committee to view local river projects, including the re-establishment of the wetting and drying cycles of the Murray River flood plains and carp

control methods. The committee is encouraged by this work and believes that these and other ongoing projects of this type should be supported.

The inquiry has focused on the Murray River as this is the area that generated most submissions. Consequently, the findings and recommendations of the committee are generally targeted at this area. I should add that no adverse comments were made regarding the lakes and Coorong fishery. As all members in this place know, the Murray River is very important to the people of South Australia. It supplies a major proportion of the water needs of the State. The inquiry has uncovered a number of significant issues associated with the Murray River. Problems for the native fish stocks of the Murray are associated with poor water quality, decreased flows and loss of habitat. These need to be improved and preserved to ensure ongoing biodiversity of native fish stocks.

In addition, the committee believes that there should be greater cooperation between States regarding the management of our fisheries and, in particular, a coordinated approach to deal with endangered fish species is desirable. The committee is concerned that Primary Industries SA intends to implement the restructure of the river fishery as outlined in paper number 17, which is a draft plan for structural adjustment in the South Australian river fishery and which was released by Primary Industries and Resources South Australia in April 1996. The committee is concerned about the intention to implement the restructuring of the river fishery as outlined in this paper while there is considerable public discontent with some aspects of the recommendations. Despite the formation of a committee to specifically address some of this discontent, the outcomes have not provided much satisfaction.

The committee was concerned to hear of complaints regarding a lack of consultation over issues affecting the local community. The committee believes that the restructuring of the fishery was based on economic viability with little regard to environmental sustainability. The committee believes that environmental sustainability should be the priority for any future restructuring process. One of the most important questions that this inquiry has raised is whether the Murray River fishery is being managed sustainably. The committee believes that an annual assessment of native fish stocks needs to be undertaken to assist closer monitoring of their harvest, both recreational and commercial.

The committee does not believe that it can be determined whether fishing practices are sustainable if no accurate published data is available as to fish stock levels. Therefore, the committee recommends greater resources for the South Australian Research and Development Institute (SARDI) to ensure this annual fish stock assessment occurs, as well as other research into the fishery. The committee believes that it is time to introduce a system that will allow greater control over the harvesting of fish from the Murray. Licences and/or a tagging system for recreational fishers and a docket system for commercial fishers should be investigated to determine whether they would be appropriate tools to monitor the catch as well as potentially reduce illegal fishing. The committee recommends that any money raised as a result of the introduction of recreational licences and/or a tagging system be returned to the fisheries for funding more compliance officers and public education for fishers.

The committee investigated some specific issues and has drawn the following conclusions. It does not believe that commercial fishers should be given access to native fish in backwaters. It also thinks that landowners and environmental groups should be given the opportunity to gain temporary licences to harvest carp on properties under their control. The committee finds that the fish ladders currently used are ineffective in enabling fish to move easily past locks. The committee believes that alternative fish bypass systems should be investigated. The committee recommends that reach relocation should occur only with the agreement of the affected councils.

The committee believes that making commercial licences transferable was an unfortunate decision. It has not been demonstrated to the committee that the commercial fishery is sustainable in perpetuity. Therefore, the committee recommends the immediate investigation into a fair and equitable way to phase out the commercial fishers from the Murray River over no more than 10 years. The committee concludes that aquaculture should be the way of the future as a number of native fish can already be farmed. The committee recommends that commercial fishers should be actively encouraged and supported to take up fish farming of native fish species outside the riverine environment, although that can be relatively close to the existing infrastructure, particularly in the Riverland.

I take this opportunity on behalf of the committee's Presiding Member, the member for Schubert in another place, to thank all those people who have contributed to the inquiry. I would also like to thank the members of the committee, including my Legislative Council colleagues, the Hons Terry Roberts and Michael Elliott, who, I presume, will be making some comments this afternoon. As well, I thank the staff, Bill Sotiropoulos and Heather Hill, who have worked diligently to complete this report. The committee also appreciates the assistance of a parliamentary intern, Ms Stephanie Geyer, who also worked diligently in her research on this issue.

I should add that the committee tried on two occasions to visit the Cooper Creek area and to take evidence regarding fish stocks from the local people. However, inclement weather prevented this from happening on both occasions. The first time we were in the Adelaide Airport lounge and the second time we were on the road to Innamincka, we could see the tower at Innamincka but we had to turn around and go back to Moomba. The committee hopes to have a third and successful attempt to look at this fishery later this year. The committee has made 21 recommendations and looks forward to a positive response to them.

The Hon. M.J. ELLIOTT: I support the motion. As it turned out, our report has focused solely on the Murray River. That happened, first, because we received no adverse comments in relation to the lakes and the Coorong fishery and as such there was no suggestion for any change. We did intend to visit the Coongie Lakes but, as has just been explained, the second time we almost made it, but in both cases inclement weather prevented that.

This is something that deserves to be looked at. Many reports have come to me of significant amounts of illegal fishing taking place in the north-east of the State. Large numbers of native fish are being caught and finding their way to the Melbourne and Sydney markets. It is undeniable that it is happening and, unfortunately, to the best of my knowledge, few people are being caught—and there are big dollars in it. The Government really needs to act.

The Hon. R.R. Roberts: Where are they fishing?

The Hon. M.J. ELLIOTT: They fish in the whole Cooper Creek system. Whenever it floods there is a massive amount of water and a big build up in numbers. And even

some years later, as the water evaporates, they are then concentrated in some of the remnant waterholes. There are very large numbers of fish up there. So, that is a problem that remains unaddressed by this committee, but not due to lack of interest.

There are also other inland fisheries that the committee did not look at. I have read (I believe in a Balaklava newspaper, if I recall correctly) about the River Broughton and some of its headwaters, where there are, in fact, fish stocks which are being affected, largely due to a very large amount of dam construction. It is a river that does not flow a lot of the time as it is, but the dam construction is adversely affecting the waterholes that from time to time keep remnant populations that respond after rains. There is also a little bit of fishing happening there. Very little is known about those habitats at this stage, other than that they are in rapid deterioration. And, of course, there are other small fisheries, although they are not fished commercially, such as in the South-East.

Eight Mile Creek and a whole lot of creeks that run to the sea have stocks of eels and other marine life, and those creeks are being heavily fished illegally. I have some personal awareness of that, having originally come from Port MacDonnell, which is near some of those creek systems. However, the committee's focus ended up being entirely on the Murray River. When the Murray River was clear and one could look to the bottom and see the bottom—not because it was dry but because the water was clear—it had significant fish stocks and supported a very large number of professional fishermen. But as we have interfered with the river system—in South Australia by building locks and upstream by just sheer diversion of large amounts of water—both the quantity and the quality of the water in terms of turbidity and salinity have changed dramatically.

As a consequence of that, the fish stocks have plunged. Some work is being done now to try to help them recover. For instance, attempts are being made to try to replicate the natural flooding-drying cycles of the backwaters of the river by the patterns of water release that occur, with the hope that this will induce some species to breed that currently are not doing so. In addition, the flooding of the flood plains often produces a lot of the food that goes back into the river and the billabongs, creeks and branches that run into and out of the river. So, there is some attempt to recreate the natural system. Obviously, we will never totally recreate it but, hopefully, at least we will get some return of fish stocks.

I am not at all sure what we can do about things such as the turbidity of the river. I think that has a lot to do with the amount of grazing pressure upstream. Clearly, once you have removed a lot of the bush cover heavy rains will carry a lot more clay particles into the river than would have happened when the natural vegetation was there. Turbidity, indeed, will be a difficult issue to attack: nevertheless, it should be.

With respect to water flows, we know that during the current election campaign in New South Wales the National Party, in particular, appears to be campaigning for increased diversions. We had an agreement with the Eastern States that there would be no further diversions—a recognition that, indeed, the river is being asked to give too much already. That is why the Murray River mouth has closed. Unfortunately, the people upstream think that any water that goes past them is wasted. I suppose you get a clearer idea when you are at the bottom end of the river about what is wasted and what is not than you do at the other end when you see water going past you, and I suppose in their minds it is an opportunity wasted.

I have argued for a long time that, indeed, as we go into this process now of irrigation licence transfer we should at the same stage look at trying to recover some water. I have argued, for instance, that each time a water licence is transferred we should try to recover perhaps 10 per cent of the water. We need to realise that water licences are now becoming very valuable items in their own right, and probably even more valuable because of transferability. Much of the water still is being used for low value crops: it is being used to grow grain, rice and cotton and yet, if you grow horticultural crops, you can get a yield 20 times as much per hectare.

The Hon. T.G. Cameron: You have to be able to sell it.

The Hon. M.J. ELLIOTT: Yes, you have to be able to sell it. But what I am saying is that water used for different crops has much greater value and there is no question that, as transferability starts operating, as the price goes up, it will move towards more valuable usage. I would predict that in the Murray-Darling Basin in years to come we could be in a position where we use less water and make far more profit and have far more jobs out of it just because we use it for higher value crops, and often crops that can be value added further—for instance, growing grapes and the value adding to wine. So, you have a valuable crop in its own right, then you value add it further and you have a lot more wealth generation coming out of it. So, if we are sensible about it we can get a win, win. We can get the river back into a much healthier situation and, at the same time, ensure that there is still economic growth. That is something which is, I would argue, readily achieved.

It would worry me, however, if we allowed licence transfers to go on for some time, if all the water is fully committed and being more efficiently used and you do not have the capacity to take a little bit out of the system. And we need to—and we know that in South Australia, when one looks at the quality and quantity of water that we now have in this State. I recall that, back in the early 1980s—I think it was about 1982 or 1983—we really were a couple of months from disaster here in South Australia. Our dams in the Mount Lofty Ranges were empty and the river had stopped flowing—in fact, we were at the point where the water was starting to flow from the lakes back upstream. That was the water we had left in the State when, luckily, there was a break in the season. If we had had another six months of drought Adelaide would have been in desperate trouble. It rained, and we have all forgotten.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: I will not say that everyone has forgotten, but I meant that in a generic sense about the State. Unfortunately—

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: No, I understand that. We have to get the river right. Until we get the river right we will never get the fish populations right—recognising that fish populations are in significant difficulty. As I understand it, we have about 30 professional fishermen—or fishers, I should say. Most of those are not full-time fishers. I think the recommendation—and the important recommendation—that comes out of this report is to say that, in the current circumstances, the additional pressure that professional fishing applies to fish stocks really cannot be sustained. So far as there is to be any fishing, it really should be recreational fishing—and let me tell members, as a person who has thrown the odd line into the river, you spend most of your time drowning worms. Very rarely—

The Hon. T.G. Cameron: Or a carp.

The Hon. M.J. ELLIOTT: Yes, and occasionally you pull in a carp. But you very rarely catch anything else. It is unfortunate in one sense that the Minister should have made the licences transferable only 12 months ago because, in so doing—and it is a strange thing to do when you know that the fishery is under pressure—the value of those licences clearly has escalated dramatically. But I suppose, on the other hand, you could argue for a number of those who have been fishing for a good part of their lives, and perhaps have been doing it even over some generations, that at least by making it transferable and upping the value, having now made a decision to buy them out, you could say that they are at least being paid for the livelihood that has been built up. It will take some time to generate the income, but I think that there will be a range of groups which would be interested in buying them out. For instance, to the east of Renmark is land that is now being managed by the Bookmark Biosphere Reserve, which has, as I understand it, three professional fishers operating within it.

This area is reserve all the way north from the Murray River for a couple of hundred kilometres through a wide range of habitats, and professional fishing still happens within the river part of it. The Biosphere Reserve people might be interested in finding the money to buy out the fishing reaches that exist within their area.

Elsewhere, local government could make some commitment because, if there is to be fishing, I would like to encourage tourists to have a go at catching a fish. We all know that tourists spend hundreds of dollars for every fish they actually catch. The important thing is that they feel as though they have half a chance of catching one. More jobs could be created in the Riverland economy as a result of people trying to catch fish compared with the smaller number of jobs that are created by the professional fishermen. The multipliers are much greater on the tourism aspect of fish than they are on the relatively small number of professional fishers.

The Hon. T.G. Cameron: Freshwater fishing?

The Hon. M.J. ELLIOTT: Yes, freshwater fishing. As long as they are properly compensated, I do not think it is an unfair proposition. It worried me and the committee that very little comprehensive stock assessment work is available to read. Some work is being done, largely by one biologist, and the impression we have is that he is so flat out doing the research that virtually no publishing is going on. How can a sensible decision be made about how many fish can be caught and whether there will be an open season for cod if we do not have long-term stock assessments which tell us what is precisely going on? It is not enough for it to be largely in the head of the researcher: it must be available for the scrutiny of others. That is no criticism of the researcher, but at this stage not enough resources are going into that area.

The recommendations in relation to recreational fishing solve the problem of resources. The committee has recommended that people who fish in the Murray should be required to do one of two things, and the committee did not commit to one or the other. We should either have a recreational licence, which exists in the Eastern States, or we should use a tagging system. Under a tagging system, a recreational fisher buys a certain number of tags and, when they catch a fish, they attach the tag to it immediately. Either way, those people will be paying for the right to fish. That would generate an income and that income would then be available to be used for funding of compliance officers for fisheries research, facilities for recreational fishers, etc. The committee believes that, properly managed, the recreational fishery has the capacity to generate funds which can ensure that we are looking after the fishery as a whole in a more appropriate manner than we are at the moment.

As I recall, there were times when no fisheries compliance officers were based in the Riverland at all, yet it was common knowledge in the Riverland that there were a number of shamateurs, so-called amateur fishers, who had illegal nets and were probably catching more fish than the professionals and selling them. If professional fishing is phased out, those people will stand out even more. They will be the only people with large stocks of river fish.

In the meantime, in relation to commercial fishing, recognising that the committee has recommended a phase-out period of 10 years, the committee also thinks there should be a docket system for fishers. In other words from the moment a fish is caught, the dockets will follow the fish the whole way until it ends up on a plate in a restaurant. A lot of the shamateurs go to restaurants, hotels, clubs, etc., and sell their fish. A docket system ensures that that does not happen. It is already used with some fish species in South Australia, and my recollection is that prawns have a docket system attached to them. I am not sure whether the Hon. Ron Roberts can confirm that, because he has spent some time looking at prawns and talking about them. It makes sense.

If we are going to make a recommendation that commercial fishing cannot continue and it is to be phased out over a period, it makes sense to make a recommendation, as the committee has done with No. 9, that people cannot fish in backwaters. It is not legal to fish for native fish in backwaters, yet the Government is considering extending the reaches into backwaters. It is logically inconsistent to say that professional fishing is to be phased out but that in the meantime people can go into more areas than before. That is clearly inconsistent. We are also gravely concerned—

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: That is not what is proposed. The committee was very concerned about the use of gill nets. At present, the number of gill nets that can be used is grossly excessive and we hope and expect that the Minister will act quickly on that matter to ensure that the number is limited. At this stage there is a limitation on the total amount of gear that can be used, but it does not distinguish between gill nets and a range of other types of fish-catching equipment.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: I do not think that they addressed that. The general reaction is that most fishers do not use many, but they are allowed to use quite a large number of gill nets, and the committee formed the view that there should be a strict limitation on their numbers.

The Hon. A.J. Redford: We had extraordinary success when we banned netting a couple of years ago.

The Hon. M.J. ELLIOTT: That was in the marine environment.

The Hon. A.J. Redford: I know the Hon. Ron Roberts tried to stop us, but it has turned out well for everyone.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The Hon. Mr Elliott has the floor.

The Hon. M.J. ELLIOTT: The issue with gill nets in the marine environment was not whether it happened, but it was a matter of process that was the big debate. That was the issue. I have spoken about the interference with the river in many ways. One way of addressing that issue is fish bypass systems. Fish ladders are already in use, but they work only

for some species. Certain species simply will not use them, and it appears that we will have to find other ways of ensuring that fish can bypass the locks.

The committee also recommended the investigation of no-take zones and aquatic reserves. There is now a very clear recognition in the marine environment that the very existence of aquatic reserves appears to bolster the catch of some species. There are certain areas where we can guarantee that there is a nucleus of the population, that they are able to breed up and it helps to sustain the strength of the population overall. It deserves further examination. I will not go through the rest of the recommendations and they are there for members to see. I commend the report to the Council.

The Hon. T.G. ROBERTS: I will play a tag-team effort with my colleague the Hon. Mr Elliott. I will raise some of the issues that he did not mention and I will not refer to the issues that both you, Mr Acting President, and the Hon. Mr Elliott have been through. The first problem that committee members had in looking at the Murray River as a resource for either the protection or exploitation of fishing was to be able to establish exactly what we were looking at. The only reference was from one marine scientist who was working in the field as much as he was working as an academic and putting down on paper what he had discovered in the field. He was stuck for time. My impression was that the work that he was doing was of considerable value.

A number of witnesses had anecdotal stories about the resource we were dealing with and the numbers of fish, but there was no way of being able to take samples that would indicate the health of the fishery or of the habitat. It had to be done piecemeal, using some of the evidence that was given to us by the University of Adelaide's Keith Walker and Jim Puckridge, by Dr John Keesing from SARDI, and by Mr Bryan Pierce from SARDI, who was the only marine biologist who had infield experience. He also was relying heavily on anecdotal information from professional fishermen and from amateurs whom he had been able to meet in his travels along the river.

Other people also had an interest in fish stocks along the river and had taken a lifelong interest in the health of the river. The relationship between the amateurs and the professionals was tied up in the debate through the association. Mr Tom Loffler, although not a member of the Riverland Fishermen's Association, was a prolific writer and lobbyist on behalf of the river and its environment. Shane Warrick and Rod Coombs from the Riverland Fishermen's Association provided us with anecdotal information that we had to be very careful about acting upon not because it was inaccurate—the information was accurate—but because the seasonal conditions of the river were such that understanding exactly what we were dealing with in particular areas of the river was subject to river flows and the state of the river in years that they were familiar with.

We received information from some of the older river fishers who went back 30, 40 and 50 years with photographs and anecdotal stories to establish that the health of the river had deteriorated considerably, particularly over the past 10, 15 and 20 years. They were concerned to ensure that our recommendations regarding stock protection, exploitation or re-establishment would be made not with our hands tied behind our back or with limited scientific information. When you make recommendations as an individual member of a committee you like to be guided by the best information, and in the case of the Riverland fishery we were travelling not blind but with limited information.

Other States further up the river, including New South Wales, took the safe way out and banned all professional fishing. Their recommendations attempted to look after the native fish by removing all potential exploitation. Victoria had a policy of breeding and restocking its inland waters. We took evidence from a visiting New Zealand specialist who stated that New Zealand was restocking for tourism reasons and for the environmental health of particular rivers.

The picture we got was that the health of the river and the health of the fishery went together. As the Hon. Mr Dawkins pointed out, the environmental health of the river was the key factor that Governments needed to cooperate on to make sure that there was stock to make decisions about. I will not go into the nuances of the various fish breeding patterns and numbers suffice to say—

Members interjecting:

The Hon. T.G. ROBERTS: There is not a fisherman on the other side by the sound of it.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I buy it in Meningie on the way down to the South-East.

Members interjecting:

The Hon. T.G. ROBERTS: I am sure they put their receipts in. It is important that any future committee look at the role and function of fishery operations in that area, given that there will be professionals operating in the reaches and amateurs and tourists wanting to fish the river. Some recommendations indicate that perhaps there will not be enough fish in the river in the future to satisfy the requirements of the commercial fishing industry.

We made some recommendations about carp fishing, about allowing an extension of licences to farmers and environmentalists, such as Bookmark Biosphere, so that when the reaches are low they would be able to fish carp and exploit them commercially. The only problem with fishing carp is that there has to be the required volume for either fish meal or for the table, and those volumes have to be coordinated either by SARDI or by a system of coordination along the river so that commercial exploitation can be done in a financially sustainable way.

The other inland lake we did not visit was Lake George in the South-East where there are three B class licence operators. I am satisfied that there are no problems fishing professionally in Lake George. The major problem for Lake George is the infeed of fresh water into the lake. There has just been a kill of over a million fish in that lake because of the dryness of the season and the inability of the fish to get enough oxygen. The water level had dropped so low that it had heated and the oxygen had depleted which resulted in the killing of a lot of fish.

I commend the report to any member who would like to read it and be educated, and I am sure that the Hon. Mr Redford would like to be included in that. I commend the work of our hard-working secretary, our research officer and the assistance of a cadet that we had for some time in the preparation of this report.

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

TUNA FEEDLOTS

The Hon. IAN GILFILLAN: I move:

That the Environment, Resources and Development Committee be required to—

I. Establish the legal status of tuna feedlots in use at Louth Bay since on or about December 1996.

II. Determine—

(a) what knowledge of the tuna feedlots was obtained by the Fisheries Section of PIRSA, and when was that knowledge obtained; and

(b) what action was taken, or should have been taken, by fisheries officers in response to that information.

III. Investigate and report on any illegality that may have occurred in connection with their duties through lack of resources.

IV. Determine whether fisheries officers were hindered in proper execution of their duties through lack of resources.

V. Determine whether any legal proceedings were considered or commenced in connection with the Louth Bay tuna feedlots and the reasons for such action or lack thereof.

VI. Investigate and report on the extent to which aquaculture enforcement has been, or is, deficient elsewhere in South Australian waters.

VII. Indicate what, if any, alteration in procedures or resources would be required for adequate enforcement of aquaculture.

I want to refer to an ABC television program last week which was a repeat of the *Yes, Minister* series entitled 'The Moral Dimension'. In the program a British company had won a contract in a Middle Eastern country but had only done so by paying £1 million worth of bribes. Minister Jim Hacker was indirectly responsible. When questioned by a journalist over the bribery allegations, Jim Hacker decided that the best method of defence was attack, so he went on at great length to attack those who would question the credibility of British industry and put at risk thousands of jobs. I mention this because I know that there can be scope for accusing me of disloyalty to South Australia, of putting jobs at risk, and wishing to halt the advancement of an industry which is booming and creating valuable export dollars. None of that is true. I and my colleagues (the Hon. Sandra Kanck and the Hon. Mike Elliott) will be very happy to see a thriving, sustainable aquaculture industry, and we are doing all in our power to ensure that happens.

I am raising concerns about the way in which the industry is regulated at present—not to jeopardise the industry. My intention is exactly the opposite: to ensure that we will continue to have an industry in the long term. If the industry is not being regulated adequately and properly, if the Government is not providing proper scientific assessment and resources, then the industry itself, the reputation of South Australia and the jobs of hundreds of South Australians are at risk. It will do no-one any good if a thriving industry collapses. If the present warning signs are not heeded, it will give me no satisfaction in a few years to say, 'I told you so.'

What are these warning signs? Let me revisit the facts. All proposed aquaculture development must be assessed by the relevant planning authority, usually the Development Assessment Commission, and I quote from advice I received from the Minister for Primary Industries, as follows:

In all cases of marine aquaculture every effort is made to obtain the best possible information available as part of the assessment process. To this end a large of number of Government, quasi-Government and non-government agencies are consulted, in addition to the public consultation process, as part of the assessment of marine aquaculture applications. This advice includes reports from the scientific officers of SARDI and DEHAA, as well as reports from non-government organisations such as the SA Conservation Council.

The Development Assessment Commission (DAC) is presently considering whether or on what terms to approve several proposed tuna feedlots developments at Louth Bay. A public hearing was held on 11 March in Adelaide and the DAC has advised that it will be making a determination on this application on 25 March.

Some of this detail was echoed in an answer given by the Hon. Diana Laidlaw in response to a question asked by the Hon. Terry Roberts earlier today, and I will refer to that answer a little later. Tuna feedlots, unlicensed and unapproved, have been in place off Louth Bay for more than two years. I quote from my own question without notice on 3 March, as follows:

One [Louth Bay] resident, Ms Madeline Shroder, upon becoming aware of the tuna pens offshore from her land, wrote twice in December 1996 to the State Government inquiring about these tuna rings. She feared for pollution of the popular local swimming beaches and the possible presence of sharks, given that the rings were only one kilometre offshore. Her letters, addressed to Mr Glyn Ashman, then Aquaculture Resource Planner, brought no reply. Upon making a telephone inquiry Ms Shroder was told that the cages were there temporarily. The word 'temporary' means different things to different people. Two years later, in December 1998, 12 of these cages or rings closer to shore were finally removed; five others further offshore remain. The timing of the removal coincided with the lodging of application for tuna farming on a bigger scale—the applications for 66 new tuna pens . . . The existence of Ms Schroder's letters of December 1996 is proof that the Government was aware of the existence of the 17 tuna rings off Louth Bay.

Some people may consider this to be not sufficiently important to warrant a reference to the Environment, Resources and Development Committee. However, anyone holding that view may not be aware of the scope and size of the tuna business and of tuna cages. We are discussing a big industry involving very big money. A lot is at stake here. According to figures published by PIRSA, each tuna cage is 30 metres to 40 metres in diameter and can cost between $80 000 and $200 000—that is an empty cage. A standard cage holds up to 2 000 tuna, which are harvested when they reach about 30 kilograms.

When tuna are auctioned in Japan, they fetch an average of $30 per kilogram, so that is an average of $900 gross per fish. Therefore, each tuna cage is holding at any given time fish which will be worth approximately $1.8 million when they are sold. It takes only about three to five months for the tuna to reach marketable size, so presumably each cage will contain several million dollars worth of tuna each year.

Naturally, this comes at a cost for the owners. The biggest cost is the feed. Captured tuna are fed once or twice daily, six or seven days a week, mainly on a diet of pilchards and mackerel. Assuming that the tuna are converting feed into body weight at a ratio of 10 to one (which I am told is a good ratio), then an average tuna cage would get more than 1.2 tonnes of feed tipped into it each day, of which a mere 126 kilograms would be absorbed by the tuna as body weight.

What happens to the remaining 1.1 tonnes? Some of the uneaten food would be eaten by other organisms and fish outside the cage; some would be carried away or dispersed; and some would turn up as tuna waste under the cage or thereabouts. What is the cost to the environment? That is a question which no-one seems to be able to answer. But, only a fool would be unconcerned by the figures involved. There is more than one tonne of unabsorbed food per cage per day.

According to a scientific paper I have seen, the nitrogen load, that is the waste of each average sized tuna cage, is equivalent to a nitrogen load from the waste water discharge of 3 500 people. Remember, 17 of these tuna cages have been in place off Louth Bay for more than two years, apparently unlicensed—and that has been reinforced by the answer the Hon. Diana Laidlaw gave today. The total nitrogen load of these cages would therefore have been equivalent to the waste

water discharge of a town of 60 000 people. That is roughly the same population of several Adelaide suburbs and equivalent to the entire Mitcham Council district.

Let nobody say that that is an insignificant matter. As I mentioned earlier, the department was advised of the location of the cages in December 1996 and apparently did not seek their removal. The location of the tuna cages was not a secret. They are so big that they can hardly be hidden. Their location was, in fact, mapped in a report prepared by Carina Cartwright of the Lincoln Marine Science Centre at Port Lincoln. There may be a disagreement about numbers. Ms Cartwright's map shows 13 tuna cages, not 17, east of Louth Island. However, since production of her report I have been told that the number of cages has swelled significantly. In any event, their existence was obviously well-known—at least to some.

Why has the Government taken no action to either licence these cages or seek their removal? We had several public statements which may indicate a reason. The Director of Fisheries, Dr Gary Morgan, was quoted earlier this month as saying that he could do little, if anything, about it because he had only one compliance officer for the entire State. In another place, Dr Morgan was quoted as saying that to penalise the developers of tuna farms off Louth Bay would be likened to punishing a person for jaywalking.

Finally, in response to a question in another place, the Primary Industries Minister did his best 'Jim Hacker impersonation': treated attack as the best form of defence and attempted to put down what he called 'campaigners against the tuna industry' who have 'come out of the woodwork'. According to the Minister, it is merely a case of 'A couple of operators have moved in early.' This appears to me to be entirely prejudging the result of the DAC application process and is breathtaking in either its naivety or complicity with those who moved in early without approval.

It is apparent that the issue is of little, if any, concern to the Government. Yet it is an issue of enormous concern to South Australia. We have here an industry which is booming, creating jobs and exporting tens of millions dollars worth of produce to Japan, where the demand is high. But all this is built upon a base which must be protected and jealously guarded. In its publicity, PIRSA states that the $100 million per year aquaculture industry relies for its success on 'South Australia's international reputation for a clean, unpolluted marine environment, together with an emphasis on high quality, high valued species'.

This reputation is achieved partly because (and I quote again the Primary Industries Minister) 'in all cases of marine aquaculture, every effort is made to obtain the best possible information available as part of the assessment process.' Yet, as we now know, tuna cages were put in place off Louth Bay more than two years before the DAC's assessment process had even begun. There are important questions about the ecological sustainability of the industry, especially with such large numbers of fish in so many enclosed pens in waters so close to shore. There has been an environmental monitoring report which was undertaken on behalf of the Tuna Boat Owners Association and which was published last month. It describes how water samples are taken for a depth of only one metre—not from below the tuna cages. In recent days we have seen and heard reports that large numbers of dead tuna are being dumped at the Port Lincoln tip or being washed up on Boston Island. I have been told that scientists who have raised concerns about the sustainability of current practices have been told to rethink their findings or they are not to speak publicly about them. Others who have asked these sort of questions have reportedly been threatened. I do not claim to have the answers, but these questions must be asked and answered. We do not address the questions by doing a Jim Hacker, that is, by attacking the people who raise them.

Finally, I remind members that, long before the present Louth Bay applications were lodged, there was an unprecedented interest in land in the Louth Bay area. Tuna fisherman Laurie Gobin purchased two packages of beachfront land, totalling 82 hectares. Elders at Port Lincoln has reported that other tuna farmers are actively seeking land in the same area for aquaculture purposes.

My concerns in raising these issues and this motion are twofold. On the one hand, there is an important issue of sustainability of our present intensive tuna feedlot practices, but there is also an important question about due process and enforcement, given the size of the industry and the multi-million dollars that are at risk. Have the Louth Bay developers merely been given a nod and a wink? Is the lack of action due to incompetence, corruption or simply a lack of resources? We must not ignore the questions. I urge members to pursue answers by supporting this motion.

It is important that I refer to the quite informative answer that was provided today by the Hon. Diana Laidlaw to the question asked by the Hon. Terry Roberts on 9 March, in which it is recognised quite clearly that there is no approval for those tuna rings in Louth Bay. This is quite clear from the answer. It is also quite clear from the answer that they were there illegally. Further on, the question tested whether there had been any investigation or consideration of legal action. However, it is particular interesting to pick out this paragraph:

> The Development Assessment Commission has written to each of the companies seeking a written undertaking—

that is, each of the companies which currently have tuna rings there—

> that the pontoons will be moved to an approved site by 6 April 1999. If the undertaking was not provided by 22 March 1999, the commission would make application to the Environment, Resources and Development Court for an order for the removal of the pontoons as expeditiously as possible. If the undertaking was given and the pontoons not moved by 6 April, the commission would also make application to the court.

Somewhat not surprisingly, each company has now provided a written undertaking that the pontoons will be moved by 6 April—not a particularly arduous obligation for them to comply with. The question is very clear. First, if these actions and this attitude are appropriate now, it is absolutely essential to find out why those actions and this attitude were not put in train at the earliest that the Government was aware that these tuna rings were off Louth Bay and complaints had been made about them.

The other point which comes from this answer is that they had to be moved to an approved site by 6 April. The assumption is that the Development Assessment Commission will have in place locations approved for the placing of the tuna rings at least before 6 April. An incredibly pressured time frame has been put on this procedure, in my view, purely to do window dressing to try to diffuse the thrust of the questions that have been raised in this place and the follow-up inquiry and work which would be consequential on my motion that the ERD will do in locking into this rather sorry chapter of events at Louth Bay.

If one is proud of the aquaculture industry, in particular the tuna feedlot program in South Australia, as I am, it is

absolutely essential that it retains an integrity and a reputation about which not only it but also we can be proud so that this industry has developed on all the appropriate parameters, complying with the regulations and the law. Sadly, this is one of the most dramatic cases of flouting virtually all those aspects upon which long-term, sustainable tuna feedlots will depend. If they develop a reputation for disregarding or flagrantly flouting any one of those criteria, I believe that the tuna feedlot industry will unfortunately come to a sad end. That really will be at much too high a price for South Australians to pay. We are in time now. Justifiably the ERD Committee has earned itself a reputation of being impartial and objective, of doing thorough research and of coming up with appropriate answers.

The onus on the ERD Committee from this motion is relatively light. A lot of the material is probably already established in terms of the revelation by the Hon. Diana Laidlaw that part of the awareness of this situation is already in hand. Therefore, if the reference is made directly to the ERD Committee for rapid investigation and conclusion, I believe we will have then put a very substantial barrier on any further mistakes that can occur if people can just go willy-nilly into any location and expect to get away with it. That is the main purpose of my motion, and I urge the Council to support it.

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

SELECT COMMITTEE ON OUTSOURCING OF STATE GOVERNMENT SERVICES

The Hon. A.J. REDFORD: On behalf of the Minister for Disability Services (Hon. R.D. Lawson), I move:

That the time for bringing up the committee's report be extended until Wednesday 7 July 1999.

Motion carried.

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

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

That the time for bringing up the committee's report be extended until Wednesday 7 July 1999.

Motion carried.

CHILD-CARE CENTRES

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

That the regulations under the Children's Services Act 1985 concerning child-care centres, made on 3 December 1998 and laid on the table of this Council on 8 December 1998, be disallowed.

In making these comments, I foreshadow that I will be seeking to move that this Order of the Day be discharged following the contributions of the Hon. Ron Roberts and the Hon. Ian Gilfillan. I say that as a consequence of the deliberations of the committee this morning, when it resolved by majority not to proceed to disallow these regulations through the Legislative Review Committee process. In that regard, given that we took evidence from an interest group, I believe I should outline to the Parliament the history of the matter and the reasons why the committee resolved not to proceed with the disallowance of these regulations.

Some time ago, the committee resolved that it would deal with regulations on the basis of certain principles. These principles have been tabled in both Houses of Parliament and accepted by all members—including the Government, by its silence—as an appropriate set of principles within which the Legislative Review Committee should deal with regulations. The principles of the Legislative Review Committee are:

(a) whether the regulations are in accord with the general objects of the enabling legislation;
(b) whether regulations unduly trespassed on rights previously established by law or are inconsistent with the principles of natural justice, or made rights, liberties or obligations dependent on non-reviewable decisions;
(c) whether the regulations contain matter which, in the opinion of the committee, should properly be dealt with in an Act of Parliament;
(d) whether the regulations are in accord with the intent of the legislation under which they are made and do not have unforeseen consequences;
(e) whether the regulations are unambiguous and drafted in a sufficiently clear and precise way;
(f) whether the objective of the regulations could have been achieved by alternative and more effective means; and
(g) whether the regulator has assessed if the regulations are likely to result in costs, which outweigh the likely benefits sought to be achieved.

During the course of our deliberations on these regulations we received evidence from the following: Josine Crichton and Ian Weston of the South Australian Council of Private Child Care Centres, who gave an oral submission; Dawn Davis and Helen Leo of the Department of Education and Children's Services, who gave an oral presentation; the Hon. Malcolm Buckby, Minister for Education, Children's Services and Training, who provided us with correspondence; the Association of Child Care Centres, which also provided us with correspondence; the National Association of Community Based Children's Services, which provided us with correspondence; Trish White MP, member for Taylor, who wrote to us; the department's notes accompanying the regulations; and a copy of an opinion from Mr Greg Parker of the Crown Solicitor's Office.

Before making comments specifically about these regulations, I should make some general comments about the Minister and the department. First, it should be pointed out that the Minister inherited the process by which the promulgation of these regulations came about, and indeed the review of the Act (to which I will come later) from his predecessor, and indeed his predecessor inherited it from his predecessor. We were told that this process, namely the review of the regulations, commenced some time in 1993, which led to the promulgation of these regulations late last year. I also thank the Minister, his staff and his office for the open, frank and responsive way in which they dealt with the regulations, in that they sought to deal with each of the issues that we raised. They provided us with information with which perhaps they did not have to provide us and sought to deal with a situation, perhaps of their own making, but in which they found themselves, in a spirit of cooperation with the committee. I am pleased that they sought not to avoid the issues.

I would also like to thank the Crown Solicitor's Office, and in particular Mr Greg Parker, who provided the committee with information concerning some legal issues. I must say, if I am any judge of the quality of legal work—and I would like to think that I am—that the paperwork provided to the committee by Mr Greg Parker of the Crown Solicitor's Office was promptly provided, addressed clearly without seeking to avoid all the issues that we raised and did so in a clear, unambiguous and, in my view, excellent fashion. I hope that the Minister passes on those views to the officer concerned.

I will deal with the issues that were raised with us because some people did take the trouble and the effort to provide us with some detail and some argument about how the committee should deal with the regulations. The first issue related to regulation 4(2) which provides:

> For the purposes of these regulations, a child will be counted as being cared for at a child-care centre whether or not care is provided for monetary or other consideration.

The committee had pointed out to it the provisions in the enabling Act, namely the Children Services Act, which in section 3 describes a child-care centre as:

> . . . any place or premises in which more than four young children are, for monetary or other consideration, cared for on a non-residential basis apart from their guardians.

In a letter from the South Australian Council of Private Child Care Centres addressed to the Legislative Review Committee, the President, Mrs Jo Crichton, said:

> We believe, however, that regulation 4(2) can't be enforceable because it goes beyond what the Children's Services Act currently permits or authorises. The Act currently says very little about licensing child-care operators (and this is one reason why the Act needs changing). In essence, the position is that, unless licensed under section 25, no person can conduct or control a 'child-care centre'. But a central element in the definition of a 'child-care centre' is that children are cared for for money or other payment. If there is no 'money or other consideration' it cannot, by definition, be a 'child-care centre'. And yet, regulation 4(2) says a child will be counted as being cared for at a child-care centre whether or not care is provided for money or other consideration.

In giving evidence to the committee the following exchange took place in relation to that clause. I said:

> In your letter you criticise clause 4(2) of the regulations, saying it is *ultra vires*. I will not argue with that; it might well be. However, another argument might be put—and I know you have legal qualifications.

I then read out the regulation to him. I further said:

> One way of looking at that regulation is to say it is *ultra vires*: that is, it is outside the definition of 'child-care centre' in the Act, and I understand that point pretty clearly. However, the contrary argument might well be that all this clause does is say that, when you are counting the number of children in a child-care centre, you include all children whether or not they are there for monetary consideration.

Mr Western said:

> That is probably the intent, and I stress again that we support the intent.

In looking at this issue, the Crown Solicitor considered the arguments and gave us a fairly detailed statement of reasons for coming to this conclusion. In his correspondence, the Crown Solicitor says the following:

> I do not consider that there is any inconsistency between the requirement to take into account under the regulations children who are being cared for without consideration and the obligation to disregard such children in determining whether a place or premises constitute a child-care centre. The matter may be explained in the following way. In determining whether or not premises must be licensed it is not permissible to take into account children who receive care without consideration. However, once it is established that premises are in fact a child-care centre then it is entirely appropriate to take into account all children for whom care is provided when determining whether or not the number of staff is appropriate or the area and the layout of the premises is suitable.

He further says:

> As r.4(2) only operates once it has been determined that premises are a child-care centre no direct inconsistency arises between that regulation and the Act. I have already indicated that I consider r.4(2) to be expedient for the purposes of the Act. I therefore advise that r.4(2) is not *ultra vires*.

I have to say that, both from my perspective and I believe from the committee's perspective, that is a soundly based and reasoned argument and perhaps only a court could take the matter any further. Certainly for the purposes of the Legislative Review Committee, it is satisfied that regulation 4(2) is within power.

The second issue that was raised was in relation to regulation 19(2), which provides:

> For the purpose of determining how many contact staff members or qualified contact staff members are required to be on duty at a child-care centre, or accompanying an excursion from a child-care centre, in accordance with this Division, only children being cared for at the centre or during the excursion will be counted (but any children present at the centre, or participating in the excursion, who are aged under 13 years will, in the absence of proof to the contrary, be taken to be so cared for).

After some detailed reasons, again provided to us by the Crown Solicitor's Office, it was felt that that regulation was valid.

The next issue with which the committee concerned itself was the appeal provisions. In that regard, I remind members that it is the duty of the Legislative Review Committee to consider whether regulations unduly trespass on rights or are inconsistent with principles of natural justice or make rights, liberties or obligations dependent on non-reviewable decisions. In that regard, section 46 of the enabling Act sets out an appeal process. It provides that a right of appeal to the Minister shall lie against any decision of the Director. It further provides that, where an appeal has been instituted, any action in relation to that decision should be stayed until the appeal has been determined, unless the Minister directs otherwise.

On the face of it, it might well appear that the decision of a regulator or the Director in relation to a child-care centre is not subject to a non-reviewable decision. However, during the course of evidence it came to our attention that no such appeal body has been set up by the Minister. Indeed, this legislation has been in place since 1985 and, to my recollection, I believe that we have had at least four Ministers during that process and no appeal body has been set up at any stage. I assume that is because there has been no requirement for such an appeal body. However, the committee noted that this is a detailed set of child-care regulations that set out a fairly prescriptive set of requirements in the running of a child-care centre.

Some might argue about the level of prescription but, at the end of the day, the Legislative Review Committee felt, within the confines of its policy limitations, that that was a matter for the Minister. However, if the Minister chose to adopt a set of prescriptive regulations, the committee's view was that the appeal process should receive some attention. Indeed, I think that the position, in so far as appeal provisions are concerned, is probably set out in this exchange with Ms Davis of the department, as follows:

> Ms Davis: The appeal process is contained within the Act and the regulations. It allows the Minister to establish appeal boards.
>
> The Presiding Member: Have they been established?
>
> Ms Davis: Appeal boards have not been established. In effect, there has been no request to do so.
>
> The Presiding Member: I think the Minister needs to have this fact drawn to his attention personally. The Minister runs a budget of about $1.6 billion. He has under his control all the TAFE colleges and schools (secondary and primary), and he has responsibilities in relation to education. There would not be many more people in South Australia who are busier than this Minister. I do not know whether the Minister, if he received an appeal based on one of your regulatory officers saying that there are not enough teddy bears in a room, therefore the child-care centre will be closed, would be in any way

remotely equipped to deal with that, because he is busy running this $1.6 billion budget.

I do not see how you can have a prescriptive series of regulations without having an appeal mechanism, which is real and not just one which is written on a piece of paper, available to these people. As a lawyer that concerns me greatly, because the power that is put into the hands of the bureaucracy is enormous. 'I will take away your licence' means 'I will take away your livelihood and your ability to conduct a business.' The Parliament gives those powers to the bureaucracy, and we say under the Act that there is an appeal provision, but in this case—unless I am convinced otherwise—it seems to me to be a pretty academic sort of an appeal process. I cannot see Minister Buckby taking a couple of days out of his busy schedule to conduct an appeal process about a small child-care centre.

Indeed, there was some subsequent discussion about that issue and, following that, the Minister referred it again to the Crown Law Office.

The opinion provided by the Crown Law Office substantially adopted the point of view that I took. The letter states:

A right to seek internal review of a decision by a Minister or a Chief Executive is frequently conferred by legislation in South Australia and in other jurisdictions.

It continues:

The fact that the appeal right conferred under section 46 may be regarded as less effective than that conferred under more recent legislation dealing with business and occupational licensing does not in any way affect the validity of the regulations. Whether or not the nature of the appeal rights to be provided in the Act are to be enhanced when the Act is revised in coming years is a matter of policy which must ultimately be decided by Parliament. However, the analogous legislation to which I have referred strongly supports an argument that there should be a right of appeal to the District Court.

The letter goes on to talk about appropriate appeal mechanisms in a legalistic way. However, I believe that the Legislative Review Committee has a responsibility that is perhaps broader than just looking at the strict legalisms of these issues.

I am pleased to see that the Minister has responded to that. In a letter from the Chief Executive to the committee dated 24 March 1999 he said:

Crown Law advice received in May 1998 made suggestions about the composition, remuneration and operation of appeal boards as provided by the Children's Services Act 1985 and the Children's Services (Appeal) Regulations 1993. The Minister has indicated his intention to establish an appeals board in early May and has asked departmental staff to work with the Crown Solicitor's Office to draw up guidelines for the operation of the said board.

In that regard, the committee resolved that it would accept the Minister's undertaking to establish an appeal board so that those who operated child-care centres could be reassured that there is not just an illusory appeal process and appeal right but a real one that can work and operate in the face of any arbitrary decision made by the bureaucracy in dealing with these prescriptive regulations and child-care centres.

The final issue with which the committee had to deal was the most difficult. I will not go into any detail about the lead-up to these regulations except to say that the process for consultation in relation to these regulations commenced some time in 1993. The Minister's office was unable to provide us with the original terms of reference in dealing with the review of these regulations and the process which was adopted in coming to the promulgation of these regulations. However, we did receive evidence that, for some unexplained reason, the process came to a halt in 1995 and was resurrected subsequent to that. However, it was very clear that there was extensive consultation with all the key players in the child-care industry.

The committee freely acknowledges that there was one element of the child-care industry that perhaps felt that the result of the consultation was not to its liking. Indeed, if I had to express a personal view on this, I would have to say that I have enormous sympathy for its position. However, we received evidence that the bulk of the industry was looking forward to and encouraging the institution of these regulations.

The committee had drawn to its attention that the regulations may offend against the principle, 'whether the regulations contain matter which in the opinion of the committee should properly be dealt with in an Act of Parliament'. It is quite clear that, in the absence of any other information, there are provisions in these regulations that should be dealt with in the context of an Act of Parliament. However, late last year and by advertisement in the *Advertiser* of 27 February 1999, the Minister announced that he was promulgating a process for reviewing the Children's Services Act and the Education Act and that the principal legislation was to be subject to extensive review with a hope that legislation would be introduced into Parliament early next year. Evidence was given and the committee was provided with a copy of the advertisement, and the advertisement contained *inter alia* the following statement:

The review offers a timely opportunity to integrate and modernise these two Acts and develop legislation which will more appropriately meet the needs of South Australians into the next century. The South Australian Government is firmly committed to openness of process in the conduct of the review and will accordingly engage in broad and comprehensive consultation with interested stakeholders and the community at large.

It then went on to give details as to how people could be involved in the consultation process. The concern of the committee was that perhaps that process should have been undertaken before the development of these regulations.

The committee was faced with balancing two competing issues. The first was that, in the committee's view, in an ideal world it would have been more appropriate to review the legislation before the promulgation of these regulations. Indeed, it was suggested that this process was one where the cart had been put before the horse. On the face of it, that is an attractive argument and there is sufficient in it to enable the committee to adopt that. On the other hand, the committee was faced with the fact that there had been an enormous amount of consultation involving large numbers of stakeholders over a considerable time. The stakeholders—I am talking about those who support the regulations—had come to the point at which they where they were looking forward to and encouraging the adoption of the regulations. It was felt that, if the regulations were disallowed, the whole process of the consultation that took place between 1993 and 1999 would have been undermined.

The committee was in a difficult position. It had a choice between dashing the hopes of those who supported these regulations, effectively saying that all the consultation that had occurred had come to nothing, or alternatively allowing these regulations to go through, provided that we received some undertaking from the Minister or the Chief Executive. In a letter of 24 March 1999, Geoff Spring, the Chief Executive, made a number of comments about this, as follows:

The department, at the recent hearing and in other places, has stated its commitment to examining the issues associated with the scope and coverage of the regulations within the context of the review of the Children's Services Act and the Education Act.

It came to the point at which the committee felt that, if any problems were associated with these regulations, they would be dealt with in the process of reviewing the Children's Services Act. Indeed, the committee received a verbal assurance from officers of the Minister that, if anything should come to their attention during the course of that review, the Minister would attend promptly to remedy any of the problems that might arise from the existing regulations.

Whilst this was a difficult decision, on balance—and it was only a fine balance—it was resolved by majority that, in the circumstances and having regard to the ongoing review and the major review that is taking place as we speak through to late this year, we ought to accept the result of the extensive consultation undertaken by the Minister over the last four years and accept these regulations. In an ideal world it would have been appropriate back in 1993 to review the Act and the regulations and it would have been appropriate to have both the Act and the regulations reviewed over that period. One of the issues that came to the attention of the committee was the fact that some of the penalties in the regulations should be put into the Act and significantly beefed up, given the importance of the welfare of our children and the responsibility that the operators of child-care centres undertake.

I will deal now with an issue that was raised by the member for Taylor, Trish White. The committee did not look at that issue because it did not come within the purview of its policies. I understand that a motion is to moved by the Australian Labor Party in both this place and the House of Assembly, and I understand that Trish White is in the middle of negotiations with the Minister. It is a difficult issue and it is likely that the motions of the Australian Labor Party will be dealt with at a later stage. The reason that the Legislative Review Committee wanted to have the matter finalised today is that these regulations come into place on 3 April and we wanted to remove the uncertainty that my committee might have created if the matter had been left to another date.

The Minister and his office deserve some commendation in this respect: at least section 10AA(2), which is the section that brings regulations into effect immediately, has not been used. It is all too rare for a Minister to adopt that process and in that regard I congratulate him. I am sure that the Hon. Ian Gilfillan and the Hon. Ron Roberts will agree with me that every single regulation we dealt with today, apart from these regulations, had a section 10AA(2) certificate on it. I warn the Government that, if it continues to throw these 10AA(2) certificates about, the likelihood of the Hon. Ron Roberts' legislation succeeding next time around will be that much greater.

In my view the committee has given the Parliament good service on this issue. The committee has consulted with the stakeholders and the result is that we have tried to come up with the best result possible. I go on the record to sincerely thank all members of the committee who have approached this matter in an open way: the Hon. Ron Roberts; Robyn Geraghty, MP; the Hon. Ian Gilfillan; Steve Condous, MP; and John Meier, MP. I hope that the process of reviewing the Act and the regulations over the next 12 months will be more smoothly carried out than the last process.

The Hon. R.R. ROBERTS: I support the comments made by the Presiding Member of the Legislative Review Committee, based on the understanding that he intends to move for the discharge of this Order of the Day at the conclusion of the three contributions to be made in this place. When I first got involved in this, like every member on the committee I thought it was an absolute botch-up and it was certainly a cart before the horse situation. As we went through our consultations with witnesses it became very clear that the problem was not with the cart or the horse but with the driver and the speed at which the driver wanted to go and the number of stops he made along the way.

In this business that we are in we are continually reviewing Acts and adjusting the regulations to apply to that framework of intent. Some six years ago we had the Act and started out with the best intention for consultation but at some time along the track we had a number of stops and got off the track on a number of occasions.

My first reaction was to say that we ought to reject the regulations and again review the Act, but one has to consider, as has been pointed out by the Presiding Member of the Legislative Review Committee, that there has been a large amount of consultation—not well organised but it has occurred—and that the people who have been involved have been led to believe that the regulations will be implemented on 3 April. The Council of Private Child Care Centres pointed out in its submission that this was a cart before the horse situation. I was somewhat impressed by that, but having heard the other evidence and read the letters I find that the overwhelming majority of child-care operators support the regulations and have been making plans for their implementation from 3 April.

Given that that expectation has been given and that the Minister has said that he will put in an appeals system as soon as possible—and my suggestion is that he should do it immediately—we are now faced with the situation that the committee has determined, against all the evidence, not to proceed with the motion for disallowance. The Hon. Carolyn Pickles has a motion as does Ms Trish White MP in the other place, and this will give us the opportunity later for the regulations to be implemented. Because the Minister has promised to implement an appeals system as soon as possible I think that we have the opportunity, in the break, to look at the regulations and if there are problems the motion of the Hon. Carolyn Pickles it will allow us to discuss these matters and either overcome the problems or reject the regulations entirely.

I take note of the point that the Hon. Angus Redford made about the 10AA(2) provision—something very dear to my heart. The Minister has made a genuine attempt to use the processes laid down by the Parliament for these introductions. Whilst I have been severely critical of the processes involved, on the balance of the evidence and the fact that there is no more emotional issue in the community than the care and welfare of children—unless it is cats, people seem to get emotional about that as well—I believe that the proper decision for the committee to make was to not proceed with the motion for disallowance. Other members do not agree with me and I will leave it to them to make their observations and express their concerns. I will not be supporting the disallowance of the motion at the conclusion of the debate.

The Hon. IAN GILFILLAN: I oppose the motion because I am of the opinion that it is more appropriate for us to support the discharge proposed by the Legislative Review Committee. The reasons for that are not so much the fine detail of the argument as to what are the comparative advantages of the regulations *per se* but, as much as anything else, the interpretation in general terms of how I see the role of the Legislative Review Committee and the way it should operate. It is a very interesting committee upon which to

serve and it is very difficult not to become subjective in assessing the material before it and losing sight of the priority that we have a major direction-instruction through our principal's policies to make sure that the regulations fit within the ambit of the head legislation, which enables the regulations to be technically legal.

That simple question was not satisfied to my satisfaction at this morning's meeting of the Legislative Review Committee, which was the time this matter was last considered. There were two quite critical pieces of information both of which have been referred to by the Presiding Member, the Hon. Angus Redford—a letter from the Department for Education, Training and Employment under the hand of Geoff Spring, Chief Executive; and the legal opinion of the Solicitor-General. They were not read by any member of the committee prior to this morning's meeting. In fact, it is very difficult to read a detailed exposition of quite involved argument during the course of a meeting, although one honourable member was observed to be reading the *Advertiser* with due diligence.

However, the fact remains that I do not believe that we are able to follow the due process of the committee in the proper application of its responsibilities in dealing with this matter. That is the first point. The second point is that currently there is a review of the Act. As a member of the committee I do not believe that I should be motivated to make a determination to support regulations which have galloped ahead of a review of their empowering legislation, if, as I believe, the cart has gone well ahead of the horse—the horse being the Act.

If that process of review of the Act is currently in train then I believe the emphasis should be on moving quickly to get that into shape so that adequate and proper empowering regulations can come into play. I do not intend to go into any more detail as to the argument suffice to say that the South Australian Council of Private Child Care Centres Incorporated did provide persuasive evidence that it believed that the regulations should be put on hold while the new Act is written and asked the committee to intervene to enable that to happen.

I am not in a position to judge what number of facilities are covered by this organisation when compared to those covered by the National Association of Community Based Children's Services SA, which wrote to us asking that the regulations be approved. I do not think that the numbers are the paramount matter. The real matter before the committee is the validity of the argument put by those two groups which gave evidence.

On that score I still remain unpersuaded that there is substantial reason to allow the regulations through at this time. Although the review process has taken a long time and a lot of consultation, child-care and children's services have proceeded over those years, have not struck catastrophic circumstances and there have not been any screams of a crisis situation having been reached.

I am therefore of the opinion that it would have been, and indeed would be, more appropriate for the Legislative Review Committee to disallow those regulations. We know from experience that regulations can reappear quite dramatically and quickly. I will not argue the pros and cons of that: that disallowance does not kill them off. I believe a more appropriate decision at this morning's meeting would have been for the committee as a majority vote—or a unanimous vote if it could have been—to support the motion for disallowance. I indicate that for those reasons I will vote against any move to withdraw this motion.

The Hon. A.J. REDFORD: I thank members for their contribution. Whilst I have some sympathy in relation to what the Hon. Ian Gilfillan says, at the end of the day I do not think his arguments are as strong as the contrary arguments, so I move:

That this Order of the Day be discharged.

Order of the Day discharged.

WORKING HOLIDAYS

Adjourned debate on motion of the Hon. C. Zollo:

That this Council—

1. Notes that Australia has formal arrangements with Canada, Japan, the Republic of Ireland, the Republic of Korea, Malta, the Netherlands and the United Kingdom which allow young citizens to those countries to apply for working holidays in Australia.

2. Calls on the Federal Government to initiate discussion with a view to entering into formal arrangements with Italy and Greece which allow young citizens of those countries to apply for working holidays in Australia and young citizens of Australia to apply for working holidays in Italy and Greece; and

3. Requests the President to convey this Resolution to the Federal Minister for Immigration and Multicultural Affairs—

to which the Hon. N. Xenophon had moved the following amendment:

Paragraph 2—Leave out 'Italy and Greece' and insert 'Italy, Greece and Cyprus'.

(Continued from 10 March 1999. Page 879.)

The Hon. J.F. STEFANI: I move:

Leave out paragraph 2 and insert new paragraph 2 as follows:

2. Notes that the Federal Government established a Joint Standing Committee on Migration which, in August 1997, produced a comprehensive report entitled 'Working Holiday Makers: More than Tourists'.

After paragraph 2 insert new paragraphs 2A and 2B as follows:

2A. Notes that discussions have already been initiated by the Federal Government and are still continuing with the Governments of Italy and Greece, and negotiations are at an advanced stage with the Government of Cyprus, to enter into formal arrangements which will allow young citizens of those countries to apply for working holidays in Australia and young Australians to apply for working holidays in Italy, Greece and Cyprus.

2B. Strongly supports the efforts being made by the Governments of Australia, Italy, Greece and Cyprus in facilitating reciprocal arrangements for working holiday visas for young people.

The amendment clarifies the motion, leaving out paragraph 2 and inserting a new paragraph which notes that the Federal Government established a Joint Standing Committee on Migration which, in August 1997, produced a comprehensive report entitled 'Working Holiday Makers: More than Tourists'.

Paragraph 2A provides that this Council notes that discussions have already been initiated by the Federal Government and are still continuing with the Governments of Italy and Greece, and negotiations are at an advanced stage with the Government of Cyprus to enter into formal arrangements which will allow young citizens of those countries to apply for working holidays in Australia and young Australians to apply for working holidays in Italy and Greece, as well as Cyprus.

New paragraph 2B provides that this Council notes a strong support for the efforts which have been made by the Governments of Australia, Italy, Greece and Cyprus in facilitating reciprocal arrangements for working holiday visas for young people.

These amendments clarify the Hon. Carmel Zollo's motion. There were some errors in the motion, in that it called on the Federal Government to initiate discussions with a view to entering into formal arrangements when those discussions were already in place. I must point out that there were some great difficulties in terms of the contributions in relation to a number of issues.

The committee which was established at Federal level delivered a very comprehensive report, and some of that committee's findings are outlined in its report. For instance, it deals with the difficulty that the Australian Government faced in dealing with the Italian Government. Italy was interested in formalising an agreement but had to address complex issues relating to its laws on employees' rights and entitlements. Obviously, some of these arrangements are extremely difficult to rectify and some efforts have been made. Indeed, those efforts have been advanced in discussions.

I also note that the Hon. Carmel Zollo's contribution did acknowledge that Greece was likely to defer entering into an agreement because it was preoccupied with the implementation of issues to allow Greece to enter the European Union. I also note that Spain had not responded to the follow-up proposals from Australia in November 1995; that France had not responded to Australia's initial approach in November 1994; and that Israel advised in February 1996 that the volunteer program was well established and did not require a formal arrangement.

It is fair to say that some progress has been made with Italy. In February 1997, the Australian and Italian Foreign Ministers signed a reciprocal deed of understanding. However, my information from the Italian Government's point of view is that the difficulties have not been resolved in terms of allowing young Australians to visit Italy on a working holiday because some complex issues have not been addressed by the Italian Government.

I also note that there are difficulties in terms of working holiday makers from countries which do not have health care agreements with Australia, and this creates difficulty for the taxpayer in terms of the full costs that are accrued for medical treatment by holiday workers in Australia. Those costs can be very significant; in fact, they have been estimated to be over $5 million annually. I sympathise with efforts that have been made to address and advance proposals that allow young people to work both in Australia and overseas, but, as I have said already, the difficulties faced by Governments in the countries that are endeavouring to effect these arrangements are very great.

I now refer to the report, which I believe was a very substantial document. The principal objective of the working holiday program is to promote international understanding by enabling young people to experience the culture of another country, and by allowing young people to remain in Australia for an extended period of time and to experience closer contact with the community through incidental work. The program provides the opportunity to gain a better appreciation of Australia, its people and their culture, and to promote mutual understanding between Australia and other countries.

By emphasising that reciprocal opportunities should exist for young Australians to experience working holidays overseas, the program also seeks to ensure that the objectives of enhanced culture appreciation and mutual understanding apply equitably to young Australians. I note that, whilst there was an initial urge of applications to work in Australia, the program peaked in 1988-89. It dipped in 1990 but increased when 40 272 visas were issued in 1995-96. It is also important to note that the Federal Government has kept the program for 1998-99 at approximately 50 000 applicants. So, there is an emphasis on allowing people to enter Australia to engage in this program.

I support the thrust of the motion, as it encourages the Governments of Italy, Greece and Australia to formalise the arrangements. However, these are Federal issues. This Council can certainly note the efforts that have been made to date by the Governments, and perhaps it can encourage the Governments to continue finally to reach agreements and formalise these arrangements. I know that the Italian Government is probably a lot slower to implement laws because of its size. There are many complex issues before any Government agenda of the day.

The fact that the Italian Government is a coalition Government creates further difficulties in getting consensus on some of these issues. But, more particularly, I feel that it is important to recognise that there are difficulties that do in fact stop the progress or a final conclusion being reached, particularly when it deals with the insurance, health cover and working entitlements of young people. This is a complex matter. I urge the Governments of Italy, Greece and Australia to continue resolving some of the complex issues involved. The purpose of my amendments is purely to clarify the technicalities of the motion so that this Council can be accurate in its endorsement of those matters.

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

STATE WATER PLAN

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement made earlier today in another place by the Hon. Dorothy Kotz, Minister for Environment and Heritage, on the State water plan update.

Leave granted.

[Sitting suspended from 6.1 to 7.45 p.m.]

WINGFIELD WASTE DEPOT CLOSURE BILL

Adjourned debate on second reading.

(Continued from 23 March. Page 962.)

The Hon. T.G. CAMERON: I rise to make a brief contribution in relation to the closure of the Wingfield dump. I have had extensive consultations with the Port Adelaide Enfield Council, and I would like to congratulate it and particularly its Mayor, Johanna McLuskey, for the detailed briefings that she was able to supply to both me and the Hon. Nick Xenophon. It was extremely useful in helping me to arrive at a final decision in relation to this matter. I also was consulted (or lobbied) by Ian Harrison on behalf of the Chamber of Commerce. I also had discussions with the EPA. I also express my appreciation for the detailed briefings that I received from the Minister in relation to this Bill.

A number of detailed engineering reports have been prepared in relation to the Wingfield dump. The Adelaide City Council had Woodward-Clyde prepare a report. I will not go into any details in relation to what each of the reports outlined: I think that has been adequately covered by others. Port Adelaide Enfield Council had B.C. Tonkin prepare a report, and the EPA had Kinhill prepare a report. Having

looked at all the reports, it is clear that there is more common ground between the B.C. Tonkin report and the Kinhill report, particularly in relation to issues such as height and closure.

It is also appropriate to place on the record that, as a ratepayer of the Adelaide City Council three times over, I express my concern about what I consider to be an abysmal performance by the Adelaide City Council in its attempts to influence me. I think the first officer I spoke to from the Adelaide City Council was at 5 o'clock this afternoon. As a ratepayer of the Adelaide City Council, I am particularly disappointed with its attempts to influence the outcome of this Bill. However, I leave that as a matter for the Adelaide City Council to sort out.

I will be supporting the Government's position in relation to this Bill, particularly in relation to the closure date and the height at which the dump will end up. However, I do not agree with the provision which denies any right of appeal to the Adelaide City Council, so I will not be supporting clause 15. During the discussions that I had with the Minister, and from reading the Hon. Nick Xenophon's contribution, I think we both expressed a concern about what the Adelaide City Council's position would be in the event that there was any legal action in the future in relation to actions which the Government may have imposed upon the Adelaide City Council. However, assurances were given to me, which the Hon. Nick Xenophon has quoted in his contribution to the Council. However, like the Hon. Nick Xenophon, I will require that the undertaking be inserted in *Hansard*.

Apart from clause 15, which would close off any appeal consideration, and the question of future legal liability for the Adelaide City Council—I do not agree on those two points—I am prepared to accept the Minister's assurance and I guess we will see what happens in relation to clause 15. I think that it is necessary for the Parliament to sort out this matter here and now. I do not think it serves anyone's interest if the matter sits in abeyance. It is likely that it will only trigger off further litigation either between the councils or between the councils and the Government, and the taxpayers would be footing the Bill. I support the second reading and, apart from the caveat in relation to clause 15, indicate that I will be voting for the Bill.

The Hon. SANDRA KANCK: I am making this speech unwillingly because, despite a tradition that we have in this Chamber that we do not proceed with legislation if any one of the Parties is not ready for it to proceed, the Minister for Urban Planning has informed me that the Government and the Opposition will gang up to ensure that this Bill gets through the Parliament by the end of this week. If the Minister has misadvised me, I will be delighted to hear a member of the Opposition stand up after I have spoken and say that it is not true that the Opposition is not willing to delay this, but I do not think I will hear that. I am appalled at these bullyboy tactics in regard to our procedures, and I am sure members—

The Hon. T.G. Cameron: Bullygirl, I think.

The Hon. SANDRA KANCK: Bullygirl tactics as well in this case; the honourable member is correct. I am also sure that members would be aware of the sort of precedence this creates and the potential for nastiness. But because the Government—

An honourable member interjecting:

The Hon. SANDRA KANCK: Let me tell the honourable member that, when I met with the Minister back in January, she told me that we would have a draft Bill to look at within about a month. When the Bill arrived it was tabled in Parliament. There was no draft Bill to look at: it arrived in Parliament and that was it and we were told then that it was to be pushed through.

The Hon. T.G. Cameron: How come the Government was briefing you back in January?

The Hon. SANDRA KANCK: I guess some people have all the luck.

An honourable member interjecting:

The Hon. T.G. Cameron: We found out after that.

The PRESIDENT: Order!

The Hon. SANDRA KANCK: Despite the fact that there have been briefings, apparently, for the Democrats ahead of the Hon. Terry Cameron, for instance, it still—

The Hon. T.G. Cameron interjecting:

The Hon. SANDRA KANCK: It does not improve things. While I have been left with no choice but to address this Bill tonight, I will put on the record the sell-out that is taking place on this issue. Because of the enormous discrepancies in information that has come from both the Adelaide City Council and the Port Adelaide Enfield Council about the urgency for setting a height and a date for closure for the Wingfield Waste Management Centre, as it is technically known, I had been intending to use the next two months to further my research on this issue by finding and consulting with people with expertise who do not have any interest in this issue.

The Hon. T.G. Cameron: Do you want to do 1 000 hours of research?

The Hon. SANDRA KANCK: No, I do not want to do 1 000 hours of research, thank you. That took four months of my time, and I am certainly not prepared to do another four months on this issue alone. It really does leave me questioning why the Opposition and the Government are so keen to get this Bill through without that adequate scientific knowledge.

The Hon. T.G. Cameron: Tell us why.

The Hon. SANDRA KANCK: I will as we move on. Despite the fact that I wanted to spend the next two months looking at this issue, I have not been shirking looking at this issue over the past two months. A number of members have spoken about the different people and organisations that they have met in the process, and I suppose the best thing to say, to save time, is 'ditto'.

An honourable member interjecting:

The Hon. SANDRA KANCK: The 18th was just over a month ago: it is not very long. I indicate that we have not taken this matter lightly but, the more that I have researched it, the more concerned I have become that what we are doing with this legislation may well have far more environmental consequences for the Barker Inlet and the gulf than if we closed it at 35 metres.

At the first meeting that I had with the Minister for Urban Planning, which took place late in January, which was five days after she and the Minister for Environment announced the Government's strategy—and I regard this strategy as very much a Clayton's strategy—she told me then that closure was necessary to provide certainty. I should have known then that we were into problem areas, because whenever I hear governments use the word 'certainty' it is almost always a warning sign and it almost always means that vested interests are involved.

The Minister told me that metropolitan councils want to know a closure date so that they can budget for the increased

costs that will evolve as a consequence of closure. I find that a very peculiar explanation of wanting certainty because, if anything, I would have expected these metropolitan councils to be lobbying the Government to keep Wingfield open longer so as to keep their costs down. Port Adelaide Enfield Council also told me that it wanted certainty, and one of the organisations that will benefit from an early closure, Pathline, told me that it also wants certainty.

Self-interest was put to me as part of the argument. I was told by a number of people who are supporting the closure that Adelaide City Council gets 13 per cent of its revenue from Wingfield. But at all times in the written correspondence I had with the Adelaide City Council employees and officers, and in all conversations that I had with these people, they were up front about that right from my very first meeting with them. I want to put on the record that knowledge of that 13 per cent income stream, however, does not in any way deflect from looking at arguments about the environmental ramifications.

Port Adelaide Enfield Council faxed me a document from someone called Paul Davos, in which the claim was made that Adelaide City Council has 'contributed absolutely nothing whatsoever to the development of infrastructure in the Wingfield area'. I must say that I was taken aback when I read that, and I thought that perhaps there might be some arrangement through local government that meant that Adelaide City Council was not paying rates. So, I checked with Adelaide City Council about that and I found that, in fact, Adelaide City Council is paying $34 000 per annum in rates to Port Adelaide Enfield Council. I would not consider that to be nothing.Another interesting factor is that Port Adelaide Enfield Council is part of the Western Region Waste Management Authority, which runs the Garden Island dump, and that organisation—

The Hon. M.J. Elliott: In the middle of the mangroves.

The Hon. SANDRA KANCK: In the middle of the mangroves—exactly. That organisation is currently negotiating for another five years life, allowing for a further height increase of somewhere between 4 metres and 7 metres. But, most unfortunately, Port Adelaide Enfield Council, in all the conversations and in all the written material it gave me, failed to mention that fact. I wonder whether the Minister in her summing up can tell me whether an application has been lodged formally by the Western Region Waste Management Authority in relation to Garden Island. And will the Minister be introducing legislation regarding the closure of that dump—because I have certainly been aware of conversations about its closure for the past nine years at least? Is the Minister equally disturbed by this application?

Amongst other things that have caused me concern has been some of the material that Port Adelaide Enfield Council has provided to me. One of the documents that emerged in this process was prepared by BC Tonkin and Associates entitled 'City of Port Adelaide Enfield—Investigation of Alternative Closure Land Forms for ACC Wingfield Landfill.' The interesting thing in this—and, in fact, I pointed this out to the Minister when I recognised it—is that there are two land form plan diagrams in this document: document 41(a) and document 42(a). When one reads the small print at the bottom—and, remember, this has been prepared for Port Adelaide Enfield Council—it says, 'Plot by Image Data Services DENR RIG for Pathline Australia Pty Ltd.' It does not say that it has been prepared for Port Adelaide Enfield Council: it has been prepared for Pathline Australia Pty Ltd, which just happens—

The Hon. M.J. Elliott: What is its interest?

The Hon. SANDRA KANCK: It just happen to be one of the private companies that will benefit by the early closure of Wingfield. The kindest complexion that you can put on this is that BC Tonkin and Associates independently was asked by Pathline and Port Adelaide Enfield Council to prepare a report and, in an act of laziness, BC Tonkin already had these diagrams prepared for Pathline and decided that it would use these, and someone slipped up and did not change 'Pathline' to 'Port Adelaide Enfield Council'. In fact, I had a fax from Port Adelaide Enfield Council or BC Tonkin and Associates to indicate that that, indeed, was the fact. As I said, that is the kindest complexion that I am willing to put on it. But it certainly leaves me worried, given that BC Tonkin was working for both organisations, and it then does not come as a surprise to find that both Port Adelaide Enfield Council and Pathline have a similar position on something like this.

I have heard competing arguments about the Adelaide City Council and recycling. At my first meeting with the Minister on this matter she claimed that Adelaide City Council does not operate a comprehensive recycling program and that, as long as there were no limits on the height or a closure date in place, there would be no encouragement for it to do this properly. I am not sure what 'properly' is. Like many other members, I was offered a tour around the Wingfield site and I saw them recycling green waste, masonry and timber. I know that they are recovering methane from the site, and from that electricity is generated equivalent to that needed for 5 000 homes per day. The Adelaide City Council has a domestic collection for recyclables on a weekly basis, while most metropolitan councils collect on a fortnightly basis. So, I do not understand quite what the Minister was telling me at that point. There have been competing arguments about height, leachate, dust, windblown litter and odour.

Anyone who has been on a tour of Wingfield will have seen that there is a very small tip face. In fact, Wingfield is regarded as one of the best examples in Australia of a best practice dump. The argument has been made that a lot of windblown rubbish comes off that dump. I did not see it on the occasion that I visited the site. One weekend I drove out there and drove around the area, and again I was unable to see any.

The Hon. T.G. Roberts interjecting:

The Hon. SANDRA KANCK: The seagull got that piece of paper. KESAB has given it a clean bill of health, but we saw a protest on the steps of the Town Hall a few weeks by people from Port Adelaide Enfield Council, who dumped rubbish that they claimed had come from the Wingfield dump. As late as last Sunday, I was to have gone with the Mayor of Port Adelaide Enfield Council, Johanna McLuskey, to look at the area at low tide to observe that for myself, but the weather was not particularly favourable so it did not happen.

The EPA has confirmed my analysis that dust, odour and litter are side issues, while height and leachate are the main game. Height is an issue because it determines the degree of slope. The lower the height, the lower the slope, and, if the sides of the dump are angled too low, that could result in ponding on the surface, ultimately leading to production of more leachate. By contrast, if the angles are too high, rapid run-off leads to erosion and the potential for exposure of the decomposing rubbish.

Most members received a letter from the Chief Executive Officer of the Adelaide City Council, Jude Munro, dated 5 March. I will read part of what she said, as follows:

> It is the opinion of the Adelaide City Council and its environmental and engineering experts that the 27 metre height proposed in the Bill will lead to severe long-term degradation of the landform and greater potential damage to the Barker Inlet and surrounding wetlands. We are concerned that the final landform proposed in the Kinhill Pty Ltd report prepared for the EPA proposes a 3 per cent slope. This may conform with the lowest band of the EPA guidelines—

I stress that—

> but results in the cap having four hectares as a flat top which will allow ponding to occur and increase leachate.

All I can say is how incredibly stupid it is that this Parliament is ignoring information such as that and how incredibly stupid it is that the Labor and Liberal Parties—the Coalition—are using their numbers to push this Bill through at a compromise height.

Members interjecting:

The Hon. SANDRA KANCK: That hurts, doesn't it? The Minister has obviously dismissed the scientific information, as has the Opposition, but I want the Minister to consider a possible legal implication of forcing the closure at this height. Given the Adelaide City Council's well documented advice that slopes of less than 4 per cent may be environmentally counterproductive, and given that legal liability will reside with the Adelaide City Council for 25 years after the closure, if problems emerge as a consequence of the dump having been closed at too low a height, problems which could be shown to have been preventable if the dump had been allowed to close at 35 metres, will the Government in turn be able to be sued by Adelaide City Council?

I was told initially that Adelaide City Council denied that there is leachate, and I was therefore ready to attack its representatives at the first meeting that I had with them because I was armed with an aerial photograph of the area taken before the dump was built which revealed that the whole area was previously covered with tidal creeks and mangroves. It is sad that back then mangroves and other swamp areas were regarded as evil places, areas that ought to be reclaimed or filled in. Nevertheless, that judgment was made and Wingfield was one of the results.

I recognise that Adelaide City Council may not have acted responsibly in the past when it was quite clear to the council that its licence permitted it to run the dump only to a height of 15 metres, but there would not have been any local government authority anywhere in Australia doing anything different. There was nothing in the way of environmental consciousness back in 1956 when Adelaide City Council began using the site for waste. If we were to choose a site for waste now, we would say that that site is totally unsuitable; but back then that was the attitude. Issues such as ponding, leachate and correct angles for the slope were not part of the thinking of that time and I suggest that it has only come into the consciousness of local government in the last decade.

I recall in 1975, when I was studying a unit on ecology, going on a field trip to a swamp site in the western suburbs of Sydney, and seeing the owners of that land using it as a rubbish tip. Our lecturer explained to us that, to most people, swamps were unproductive places. We have a different attitude now. We know that our mangrove swamps are extremely productive and, in the case of the Barker Inlet, we are talking about a nursery and a feeding area for fish. Without those mangroves, our recreational and commercial fishing industries would be very restricted.

In 1989 I helped form a group, which we called Resource Regenerators, which pressured the Government of the time to put in place a complete recycling facility for this State. It is now 1999, 10 years later, and we still do not have such a facility because the waste management strategy of this Government is to leave it to the private sector. Indeed, in some ways we have gone backwards since then with inroads into our container deposit legislation. During the early 1990s I was employed by the Conservation Council and I was its representative on the Government's Hazardous Waste Management Consultative Committee. For my sins, I regularly read one of the waste industry's journals, so I have maintained a long interest in this topic. Because of that interest I have been perplexed by the whole handling of this issue and the claims and counterclaims.

Throughout my investigations, Port Adelaide Enfield Council has attacked Adelaide City Council, but I never heard Port Adelaide Enfield Council aim the same arguments at the Cleanaway or Borrelli dumps, which are what most people imagine is Wingfield when they see them because they are so high. For that matter, neither have I heard any strident calls from the Government in the past five years for the closure of the Borrelli and Cleanaway dumps. It is interesting how it appears that what is good for the gander is not good for the goose.

The Government has claimed that it needs to get this Bill passed this week. The reason Government members gave me in a meeting I had with them in February was that, by the time we get back in late May, it will be four months since the Adelaide City Council put in its application for renewal and the council could take legal action. I have a letter from Adelaide City Council, which I will read into the record. It states:

> We have been advised by the South Australian Environment Protection Authority (SAEPA) that an interim licence will be issued covering the period of time that the Wingfield Waste Depot Closure Bill 1999 is being considered. Under the Environment Protection Act 1993, SAEPA has the ability to amend and reissue licences whenever necessary and, as such, when the Bill is passed, a new licence will be issued. Accordingly at this time the City of Adelaide has no intention of pursuing legal action against the SAEPA.

I met with the Employers Chamber earlier this week. It would far rather that Wingfield closed at 35 metres height as it knows that the closure will inevitably lead to increased costs for its operators. The Employers Chamber pointed out to me that a proper economic impact statement has never been done on this matter. The latest *Business SA*, which we all receive in our mail, has an article about the establishment of an interim waste committee, which comprises representatives from the Employers Chamber, the Local Government Association and the EPA. This is what *Business SA* has to say about that, as follows:

> We are concerned the Government has not properly assessed the economic implications of a reduced closure height for the landfill. There is significant concern that new landfills located further from Adelaide will see significant increases in the cost of waste disposal. We support the Government's efforts to improve environmental performance at all landfill operations in South Australia and welcome the approval of two new landfill sites which will ensure enough landfill capacity for metropolitan Adelaide into the future. We are however concerned that a premature closure of the Wingfield site will lead to significant cost increases to industry without delivering any significant environmental benefits.

I note that the Government is always ready to accept the backing of the Employers Chamber when it comes to

electricity issues but clearly when it comes to a matter like this it simply disregards its opinions.

The Government and the Opposition must also recognise the impact on country and near country residents as new dumps are opened up as a consequence of the early closure of Wingfield. What about certainty for them if we were arguing for certainty. Some of these people have purchased land for primary production in the very recent past with no knowledge that a dump will be located next door. What about certainty for them?

Some of these people have had the accusation made they are suffering from the 'nimby' syndrome—the not in my back yard syndrome. Equally, they can point the finger at those in the metropolitan area and accuse us of the 'oosoom' factor—the out of sight, out of mind factor. Wingfield is a very potent reminder to us all that we are using our resources in a profligate manner. I see no harm in having that symbol right there in amongst us so that we are faced with it on a regular basis, so that our noses are symbolically rubbed in it and so that we are constantly reminded that we need to look after our resources and not simply throw them away.

The Hon. T.G. Roberts: What about a bang in the head with a burnt stick? That would be better, wouldn't it?

The Hon. SANDRA KANCK: For whom? The Government? The ALP has courted the protesting residents where the new dumps are to be located but when it comes to the crunch it is getting right behind the Government to assist it in foisting Adelaide's rubbish on these country regions far sooner than they might otherwise have had to bear it.

I was speculating about the sort of conversations that might have gone on in the Liberal Party and Labor Caucus rooms about this: 'Can we sacrifice these people out there? Yeah. They're Liberal voters anyhow and if the Labor and Liberal Parties are coming together on this then they'll really have no choice when it comes to a vote at the next election, so we can take the chance on that.'

I have to keep asking myself as I look at this, 'Who benefits from this?' The real beneficiaries of this will be the new private operators, so why is the ALP willing to give them a free kick? I suspect that part of its motivation is parish pump politics. I heard Kevin Foley, the member for Hart, speaking on radio and he simply dismissed any scientific arguments and said that he was going to represent the people in his electorate and this was what he wanted. The approach from both Labor and Liberal on this issue has been cavalier. I believe that political compromise in this situation may well result in an environmental disaster. Parliament tonight is making a big mistake, one that I believe will not only be of great economic but great environmental cost to our State. I indicate that the Democrats oppose the second reading and the Bill.

The Hon. T. CROTHERS: I did not intend to rise to my feet but I had occasion, as members who were present at the time may recall, to get to my feet on a matter yesterday with respect to offering some support to my colleague the Hon. Paul Holloway in yet another attempt by the Hon. Sandra Kanck to play to the gallery or to vilify the Labor Party and its members personally.

The Hon. Sandra Kanck interjecting:

The Hon. T. CROTHERS: What you said is on the *Hansard* record, as it is tonight. The Hon. Sandra Kanck says that the Labor Party is acting in cahoots with the Government. That is not so. I have just spoken to my Leader who assures me that whilst we are supporting the bulk of what is contained in the Government's Bill we are not supporting it all. I congratulate her on the length of her contribution which went for just over half an hour—not a bad contribution for someone who did not have time and had to do her notes on the run with respect to making a contribution to this Bill.

Let me say this (and I have checked again with my Leader, the Hon. Carolyn Pickles): we really have very little trouble at most times with respect to observing the Westminster convention of the Government not proceeding with a Bill until such time as all the Opposition members are *in situ*.

The Hon. Sandra Kanck interjecting:

The Hon. T. CROTHERS: I am making a point. I never interrupted you when you were on your feet and I ask you to display the same tolerance to me as I did to you and let my words fall where they may. I have done some homework on the staffing levels of both the Democrats and the Labor Party. We have three shadow Ministers and there are three Democrats. I believe that the Democrats are allowed a minimum of 1.5 staff units per person.

An honourable member: 1.6.

The Hon. T. CROTHERS: I was told it was 1.6, but I was erring on the side of truth: I said 1.5 as a minimum. So that is 4.8 staff members. Our shadow Ministers have four staffers between them, and that is 1.3 each.

The Hon. T.G. Cameron: It was even worse in the last Parliament.

The Hon. T. CROTHERS: Terrible. Here is our Notice Paper today.

The Hon. M.J. Elliott: Our friends from the other place do not have to deal with the matters here.

The Hon. T. CROTHERS: Yes. Here is our Notice Paper today and it is there to be seen because, as you know, most amendments are moved and debated in here as indeed are most Bills. So it does not work for Mr Elliott to say that we have ten shadow ministers in the other place. The bulk of the work with respect to the responsibility and carriage of a Bill, because of the numbers in this place, exist on the Opposition front bench, the same as it exists with you three people in the Democrats.

The Hon. M.J. Elliott interjecting:

The Hon. T. CROTHERS: I am not about to argue with you. Let the bald facts speak for themselves. Our three members have four staff between them; you people have 4.8 staff. There are three of our people and three of you. In spite of my words of caution to the honourable member yesterday when speaking after the Hon. Paul Holloway—not the most irascible of men, a very quiet, good natured human being most of the time—as I pointed out to you is that what wins arguments for me is not vilification, whether true or untrue, but dent of rational logic.

You did refer to nimbys and I was about to refer to them to. People in our society—and it is good to see them all interested—on a number of occasions are interested for their own reasons, not for reasons of the environment but for reasons of being selfish. The people at Burnside and Springfield do not want to see their suburb cluttered up, and so it goes on all over the place.

Some of those protests are genuine and necessary. I recall the matter of Marineland. I sat on the select committee and when I asked the Friends of the Dolphins how many there were in that club they told me there were 28 paid-up members of whom 15 were active. That group held it up and in fact ultimately led to the destruction of a project which would have gainfully employed 200 South Australians. What person

with money to invest will come to this State to invest it if they have to go through a lot of unnecessary processes?

I am as much an environmentalist as the next one, but the environmentalists who occupy the lunatic fringe do their cause ill and hurt the cause of the rationale environmentalists of whom there are many. So you talk of nimbys—not in my back yard—and you are right. There is a pervasion in the community with respect to the collective numbers of groups of nimbys who exist. If you wanted to put a Snakes and Ladders or Ludo table in a parkland I have no doubt that there would be a collective group of people protesting against that with some particular rationale.

We have some greenies saying, 'Let's save the whales.' That's fine. What about saving the human being? By the year 2025 we will not have enough fresh water to irrigate crops to feed the world's population. By the year 2035 we will not have enough fresh water to give the world's population a drink which will sustain them. Now, let us get our priorities right; let us do that at all times.

What are we going to do with the rubbish? Nobody has asked the Minister more questions about recycling and rubbish—and it is on the *Hansard* record—than I. I have a particular interest in the subject. The Minister and I do not always agree: I have another rationale of which she is aware. But, Question Time is when I ask those questions.

In conclusion, there are 51 items of business on this Notice Paper today, and this is the penultimate day of sitting. This has to be some sort of record. I call on the Government to do some research on this matter so that no longer can the Opposition and the Government be vilified at the whimsy of one or two members in respect of where the hold-ups really are occurring.

I can say this to the Democrats: time after time they are not here when they are listed to speak—and I can understand that, but let us put it on the *Hansard*—or they are not ready when they are called on to make their contribution. That happens to everyone, but I simply want to know, so that there can no longer be justification for this type of vilification, where the hold-ups are actually occurring.

As I said, the Notice Paper speaks for itself. I can never remember on the penultimate day of a session (and I might stand corrected) a total of 51 pieces of business to be proceeded with. I again ask the Hon. Ms Kanck to refrain from the vilification of members here in an endeavour to justify her position that on this occasion certainly is not justified. The Labor Party is not voting totally in tandem with the Government. (I have asked my Leader, the Hon. Carolyn Pickles.) The Labor Party is supporting most of what the Government is doing but not all of it and, when the Bill goes through the Committee stages, that will become crystal clear.

The Hon. M.J. ELLIOTT: It was the intention of the Democrats that this issue be referred to the Environment, Resources and Development Committee. As I saw it, councils had conflicting views and the Minister was quite right in seeking to resolve them, but I must say that, on my reading of it, the decision was that the compromise would be somewhere between what the two councils were asking for. The question should have been: what is the best height that it should be for ecological and economic reasons, not what is a number part-way between.

It appears to me that major scientific advice was sought after the height was chosen; consultants were brought in and the consultants said, 'Gee, Minister, you chose a fairly good height. That is just what we would have chosen.' There is no doubt that there was conflicting advice out there. Referral of the matter to the ERD Committee ultimately is not a comment on whether or not the Minister has chosen the right height: rather, it was a comment that there was conflicting advice out there.

The committee has shown itself (I think it has an excellent record) to be non-partisan. It has some very healthy discussions but it has proven itself to be non-partisan, and I think that the sorts of recommendations that have come from it have been non-political. I think it would have been sensible to have referred this matter to the ERD Committee. There was no rush. There is no real reason to debate this Bill now. I do not understand why the Government, or the Labor Party, has made a decision which is, essentially, in my view, a plucking of a number out of the air rather than spending a bit more time on making sure that we came to a decision that ultimately was not a compromise for the sake of a compromise but, rather, was based on good, impartial, non-political decision making.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank all members for their contribution to the debate. Like the Hon. Nick Xenophon and the Hon. Terry Cameron, I also declare an interest as a ratepayer of the Adelaide City Council.

I highlight at the outset that no sweetheart agreement or political comfort zone has been reached between the Government, the ALP, the Hon. Mr Xenophon or the Hon. Mr Cameron. I highlight that because, if the Hon. Sandra Kanck and the Hon. Mike Elliott wanted to be fair in the contribution they made, they would recognise that the Labor Party has amendments on file which do not support the height limit that the Government has nominated in the Bill; and that in the contribution by the Hon. Terry Roberts there was comment also that the ALP would oppose the appeal provisions. That has already been stated by the Hon. Mr Xenophon and the Hon. Mr Cameron.

I can count the numbers. The Government will not get the Bill through in the form that it would wish. Other than being a convenient but ill-researched argument by the Democrats, I cannot see that there is any sweetheart agreement. If there was, the Government would wish the Bill to go through in the form in which it was introduced. My understanding of the numbers in this place is that it will not do so.

I also want to say to the Hon. Sandra Kanck, in terms of the conventions of this place, that I respect them. I have been a member of this place for 16 years; I have spent 11 years in Opposition. I am very conscious of the role of members from either the Opposition or, in your instance, a minor Party who want to make a contribution. But, I also respect the role of Government when, on the occasions it nominates a Bill to be a priority Bill, the Government intends that that Bill proceed.

I recall that the honourable member had family matters which had to be attended to in Broken Hill. I met with the Leader of the Australian Democrats, the Hon. Mike Elliott, on the day that the Government released the waste management strategy and went through all these issues with him. The honourable member kindly met with me on returning from an Australian Democrats conference and the family matters which had to be attended to. The honourable member met with me again on 25 February after the Bill had been introduced. But, at the earlier meeting that I had with the honourable member I went through all the discussions I was having with both councils and the content of the Bill; I nominated that we had to go through various processes to get the Bill to Cabinet and through Parliamentary Counsel, and

that it would take some few weeks to be framed before it was introduced.

Nothing in the Bill has changed from the days when I briefed the honourable member in mid January or immediately after the Bill was introduced. I would say that every other member in this place, but the honourable member, understood what a priority Bill for the Government means, and that has been accommodated by Mr Patrick Conlon, as shadow Minister for Urban Planning in another place, the Hon. Terry Cameron and the Hon. Nick Xenophon. I thank them for respecting that convention.

The Hon. Sandra Kanck interjecting:

The Hon. DIANA LAIDLAW: It has not been abused by the Government. On occasions there are priority Bills, and we appreciate the manner in which all members have been able to accommodate that within the two month period from when the Government first declared that it would advance this Bill. The Hon. Sandra Kanck may not like or agree with the Bill or agree with the majority of members who will support it, but it does not mean that we are all wrong; in fact, it could be that we were all right. It is interesting for the honourable member to challenge—

The Hon. Sandra Kanck interjecting:

The Hon. DIANA LAIDLAW: Yes, it is just so interesting for you to sit back and assume that, just because you do not agree with us, we are all wrong.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Yes, it was; it was definitely you. The honourable member also said that none of us had done our homework. I can assure the honourable member that I would not in the first place have advanced this to Cabinet, my Party room or to the Parliament if I had not done my homework. I assure the honourable member that I have not ignored any information when bringing this Bill before the Parliament on behalf of the Government. I have considered it all, and from a great deal of discussion this Bill has been presented. I make the point again, as I did in my second reading explanation, that the legislation is not the preferred course of action.

I would have liked to believe that we could resolve this by some form of mutual understanding between the councils, but the more discussions I had the more it became clearly evident that there was no trust, belief or respect between the councils in terms of the positions that they had taken. It was quite evident, when I looked at compromising in terms of a position that could be taken to the Environmental Protection Authority, that both councils would not budge from fixed positions, and both insisted that they would exercise their legal rights. It was their entitlement to do so. It remains, notwithstanding the legislation, the entitlement of the Environmental Protection Authority to set the terms for the land management plan and for the licence.

The Hon. M.J. Elliott: Who chose the height?

The Hon. DIANA LAIDLAW: The height was a matter for discussion with the EPA and with the councils. Ultimately, as is provided in this Bill (and if he had read it the honourable member would know), the EPA will, as it should, determine the height and the conditions as part of the land management plan and the licence.

The Hon. T.G. Cameron: What did the Port Adelaide Enfield Council say to you or the Government about the EPA's height proposal?

The Hon. DIANA LAIDLAW: They would prefer to have a lower height, and that is reflected in the ALP amendments. In terms of this whole issue it was interesting that, when we first started discussing it, the Port Adelaide Enfield Council was at 15 metres, and Adelaide was at 40 metres. Both always told me that they would rather reach an agreement on this than pursue legal action, but every time you asked them to see what agreement could be reached they talked about their legal recourse and, ultimately, held fixed positions. So, the Government has taken this course.

I refer to my respect for the Adelaide City Council in terms of its endeavours with the Environmental Protection Authority in recent years to improve management of Wingfield. I would never claim, as the Hon. Sandra Kanck or even the council has claimed, that it is best practice. They certainly do well with a dump which was established in 1956, which is not lined and the basin of which is not protected at its working surface. However, it does not mean that it is best practice, and any discussion with the Conservation Council would confirm that.

It is interesting that the Hon. Sandra Kanck made no reference to the Conservation Council. Usually, the honourable member is the parrot of the Conservation Council but, interestingly, there was no reference to that organisation. The Conservation Council would have it closed today and certainly wishes to see better landfill practices, resource recovery and recycling in the future. I know that even the Hon. Mike Elliott, in debate on the Waste Management Commission when he first entered this place and we talked about green bins at the kerb side, has always wanted councils to get into better recycling at kerb side to separate waste from green waste. Adelaide City Council does not provide—and I can say it as a ratepayer—for green waste to be separated.

The Hon. M.J. Elliott: Why doesn't your Bill do that?

The Hon. DIANA LAIDLAW: This Bill essentially will, because by having a lower closure height the Adelaide City Council will have to look at its collection practices, which are indiscriminate today. Thirty per cent of waste received is green waste. If they wish to settle at the height nominated in this Bill, and according to the licence and land management plan, they will have to address this issue of green waste at kerb side. In that we will at least have the support of the—

The Hon. M.J. Elliott: They already are.

The Hon. DIANA LAIDLAW: They are not. I am a resident. They do not have the separate bins. There is no such arrangement with the Adelaide City Council. I do not want to delay this matter, because we have other work to do as well. I highlight to the honourable member, in terms of speaking about Garden Island, that discussions are being held with the EPA at present to look at how that site can be closed in an orderly fashion over five years. Equally, there are, with the Adelaide City Council, discussions with the EPA over five to six years in terms of how they can close that dump in an orderly manner. I highlight the difference, too, that Wingfield takes—

The Hon. Sandra Kanck interjecting:

The Hon. DIANA LAIDLAW: No, just listen. Wingfield takes 75 per cent of the northern area metropolitan waste and 50 per cent of the waste overall in the metropolitan area. It is mammoth compared to the operation at Garden Island. I support the orderly closure of Garden Island, and that is under way.

I highlight briefly that, when the Hon. Sandra Kanck raised with me her concern about Pathline's name being mentioned on B.C. Tonkin's report to the Port Adelaide Enfield Council, I did, as she suggested, convey this concern and mine to the council. We both received advice from B.C. Tonkin about the way in which it had worked on separate

exercises but had to nominate Pathline as having intellectual rights over that information, and I accepted the explanation of B.C. Tonkin. I did not reflect on their professionalism, as the honourable member did in a very bad way.

The Adelaide City Council does not operate comprehensive recycling, masonry, timber or green projects for recycling or resource recovery: they are trial projects for which, desirably, they should be seeking applications to extend as a more permanent effort on behalf of us all.

The priority nature of this Bill was established as such by the Government because we want to get on with our resource recovery effort, but, equally, the Environmental Protection Authority would normally allow only two weeks for public consultation. However, it extended it to four weeks in this instance. Normally, the authority would allow two months for assessment, but it extended this to four months. So, by 31 May the EPA must determine the licence application either through approving with conditions, or refusing, the Adelaide City Council's licence application. If the Environment Protection Authority must do so in either respect, it is without question of great benefit to it to have the reflection of Parliament on this matter, if the Bill is before Parliament. The Government and the Parliament—because there will be support for the passage of this measure—clearly believe that the EPA would benefit from the Parliament's consideration of this Bill.

In terms of the Environment, Resources and Development Committee, the Hon. Mike Elliott knows that I have already been asked to appear informally. I did so for about an hour and 15 minutes. I have talked through this issue with the committee. The reference is with the committee already. It does not need a new reference. The Port Adelaide Enfield Council was asked to appear. The committee has determined that it will not be heard at this stage, but perhaps later. It is already before the committee if that is how the committee wishes to advance the issue.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: I am saying that you do not need a separate reference. Equally, in terms of the Employers Federation, I have had a great deal of discussion with that body, as one would expect. It is an important player in this business and represents industry well in terms of waste produced and resource recovery. It has always been acknowledged that there will be some increased cost, but there will also be increased jobs and industry, and they will be in the country regional areas as well as in the city. Visy, for example, is just one company that would be very keen to establish in South Australia as it has established elsewhere, but it certainly needs better collection and separation arrangements than we can provide in Adelaide at the present time because of the indiscriminate collection policies of the Adelaide City Council.

I believe that I have covered most issues at this stage, other than the important one in terms of an undertaking I gave to the Hon. Nick Xenophon; that is, in terms of Adelaide City Council's liability. I advised him on 23 March, and likewise I advised the Hon. Terry Cameron who raised similar questions, in the following terms. The Adelaide City Council has questioned its legal liability in relation to leachate management if required to restrict the finished height of the landfill at 27 metres AHD, and not the final settled height of 32 metres AHD as recommended by the Adelaide City Council's engineers, Woodward-Clyde.

The Government's legal advice is that the Adelaide City Council would not be liable under these circumstances. Specifically, the Crown Solicitor has advised the following:

> . . . it is implicit in Parliament's decision to restrict the height, that any liability the council might otherwise have incurred for failing to fix the finished landfill at a greater height, has been impliedly removed.

For example, if the only argument against the Adelaide City Council was that ground water contamination was caused by a height restriction in the absence of any other negligence or fault on the part of the Adelaide City Council, it would be immune from liability. In a similar way, the Adelaide City Council would not be liable for any environmental damage caused because it followed a condition of its licence to operate issued by the Environment Protection Authority.

This does not mean that the Adelaide City Council can act irresponsibly in relation to the closure of Wingfield. It will be expected to follow the requirements of the adopted landfill environmental management plan and the conditions of its licence. Should Adelaide City Council fail to do so, the EPA can take action against it in the Environment, Resources and Development Court under the relevant enforcement provisions of the Environment Protection Act 1993. I thank all members for giving this matter priority attention and for their contributions to this debate to date.

The Council divided on the second reading:

AYES (17)

Cameron, T. G.	Crothers, T.
Dawkins, J. S. L.	Griffin, K. T.
Holloway, P.	Laidlaw, D. V. (teller)
Lawson, R. D.	Lucas, R. I.
Pickles, C. A.	Redford, A. J.
Roberts, R. R.	Roberts, T. G.
Schaefer, C. V.	Stefani, J. F.
Weatherill, G.	Xenophon, N.
Zollo, C.	

NOES (3)

Elliott, M. J.	Gilfillan, I.
Kanck, S. M. (teller)	

Majority of 14 for the Ayes.

Second reading thus carried.

In Committee.

Clause 1.

The Hon. SANDRA KANCK: I want to put on the record at this point, after a comment made by the Minister about me not acknowledging the Conservation Council's position, that, indeed, I do. I did not go through the exhaustive list of whom I have spoken with, but I do place on the record now the fact that I met with the Conservation Council. Its position was to close it down tomorrow if we could; remove every last bit of material that has been dumped on the site; and restore the site to its original creeks and mangrove state. I think it is a nice wish list but I know that, in terms of a position, that would probably be even more unacceptable to all the parties concerned because of the costs involved and, ultimately, you would still have all those huge tonnes of rubbish that would need to be carted somewhere. So, we would simply have to find another site for that material and it would not solve anything; hence, I did not introduce it into my argument at the time. However, I do want it on the record, given what the Minister has suggested, that I did consult with the Conservation Council.

Clause passed.

Clause 2 passed.

Clause 3.

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

Page 1, line 23—Leave out 'after subsidence'.

I would like to comment in relation to some of the content of the Hon. Sandra Kanck's contribution and to give some explanation as to what the Opposition's position really is. The Opposition's position, as stated by the Hon. Trevor Crothers, is not the same as the Government's position, but we do have a lot of sympathy for the Government's position in relation to the dispute that was taking place between the Port Adelaide Enfield Council and the Adelaide City Council in relation to a compromise height. A stream of litigation has passed backwards and forwards between the two councils. The State Government could either sit back and watch both councils expending large sums of money on litigation or intervene and put forward a recommendation with respect to closure date, height and a process for the first stage of an integrated waste management settlement program, which includes the northern regions in its proposal.

As we said during the second reading debate, the Opposition's position is not one of total support for the siting of those dumps in the northern part of Adelaide: we are not setting out to bury waste or create waste disposal centres in regions that the EPA would not approve. It is our preferred position that the EPA choose the site rather than the proponents. However, we are not in Government: we are in Opposition. We have some sympathy for the position in which the Government has found itself, being a mediator with respect to the litigation. So, it was not quite as simple as the honourable member's argument suggested.

I suspect that many people are watching where the new dumps will be placed. There is a lot of acrimony, particularly in the Inkerman-Dublin area, and I can understand the Democrats wanting to support a new location for those dumps. But both the local members, Kevin Foley and Pat Conlon, stated a position. Our position is pretty open in relation to how the Labor Party makes its decisions. We take Bills to Caucus and we debate the issues in relation to best evidence that we have in relation to our arguments. Sometimes we agree with the Government's position, sometimes we do not and sometimes we amend. In this case, we are amending one part of the legislation, agreeing with some of it and opposing a part of it.

So, to say that we are in coalition with the Government on this is not strictly correct, but we agree with the process that is involved and, in part, the height that we have settled on does encourage the Adelaide City Council to have a better strategy in relation to dumping. If it wants to maintain the closure date of 2004, there are certain separation proposals that it would have to meet in relation to what it dumps there, as the Minister has implied. Our height is slightly below the height set and agreed to by the Government, but I do not think that there will be too many bad words between the Government and the Opposition in relation to that difference.

The Hon. M.J. ELLIOTT: I would like to ask the Hon. Terry Roberts, as he is moving an amendment which, in effect, lowers the dump height by 2 metres—

An honourable member: By 2 to 3 metres.

The Hon. M.J. ELLIOTT: Yes. I will ask the Minister the same question in a moment. Was the decision based on hydrology, psephology or numerology? How did the Opposition choose this height? The Democrats are in a position where two alternative heights are being proposed. In fact, we suggested that it should have been referred to the ERD Committee to take a closer look at it. We had an open mind about this. I would be really pleased to hear the persuasive arguments with respect to why the Opposition has gone 2 to 3 metres lower than the Government and, likewise, how it ever chose the number that it chose. I suspect that it was either numerology or psephology and that hydrology had very little to do with it.

The Hon. T.G. ROBERTS: I suppose that the honourable member should be asking the Government this question. The position that the Opposition adopted was that those people who took an interest in it and studied it closely read the reports and could see the arguments. And there were good briefings. In deference to what the Hon. Mr Cameron said in relation to lobbying, the Adelaide City Council lobbied very professionally. It outlined its case very well. We certainly were not impressed by the fact that, in the first instance, it wanted to go to 40 metres and we were not impressed by the Port Adelaide Enfield Council's position in relation to a 15 metre closure.

I suppose that the position we adopted was reasonable and, from reading in the specific reports of the tapering process and the finalisation of the capping of the dump, we considered that there would not have been that much difference in relation to a 25.5 metre capping as long as the capping was of suitable material and that, in the final stages of the dump, the appropriate material was to be placed in the appropriate way and that the contouring was appropriate. That is the way in which we settled on that height. And, as I said, it was a way of encouraging the Adelaide City Council to do more recycling and perhaps separation in relation to a lower height rather than going towards the 32 metres. So, it was for good conservation reasons that we settled on the height that we did.

The Hon. DIANA LAIDLAW: The honourable member has given a very reasonable explanation, and it is one that I would have accepted from the Hon. Mike Elliott, because it sounded very much like the Hon. Mr Elliott speaking about the need for resource management and minimisation of waste. That is what a large measure of this Bill is about because, as I indicated before, 50 per cent of all waste from the metropolitan area is now dumped at Wingfield.

Members interjecting:

The Hon. DIANA LAIDLAW: The Government works very cooperatively on matters such as this. In speaking to the amendment and in answering the question that was foreshadowed by the Hon. Mike Elliott, I refer to my second reading explanation. I highlight that it was on advice from the Environment Protection Authority that the Government accepted the height set in the Bill. The Bill sets a maximum post closure settlement height of 27 metres AHD. The EPA advised that closure at this level can be achieved in an environmentally sound manner that enables acceptable, long-term stormwater control. It can be expected that a post settlement height of 27 metres AHD will generate less risk of leachate than a post settlement height of 32 metres AHD.

A very telling factor for me in the advice from the Environment Protection Authority was the assumption by the Adelaide City Council's engineering consultants that the dump should accommodate a growth rate of 8.75 per cent in the amount of waste received to calibrate the model that it presented in its application. That is just unacceptable, and I would have thought that the Hon. Mike Elliott would also have said that a growth rate in metropolitan Adelaide of 8.75 per cent was unacceptable and that collectively Parliament should be working to minimise waste, advance recycling and promote resource recovery initiatives. I am sorry that

the Democrats do not support that line. That is what the Bill is designed to achieve. We cannot achieve those noble and necessary objectives without the closure of Wingfield.

The Hon. T.G. CAMERON: I will oppose the amendment moved by the Hon. Terry Roberts. As a ratepayer of the Adelaide City Council, I am particularly pleased that the lobbying undertaken by the Adelaide City Council was very professional, but it could not have been very convincing because the Labor Party's amendment proposes to remove the words after subsidence. In effect, we could end up with a height considerably less than 27 metres. In the briefing that I received, along with the Hon. Sandra Kanck, with representatives from the EPA, which was held in the Minister's office, I recall being told that the subsidence could be anywhere between 10 per cent and 15 per cent. If that is the case, at 27 metres we could be looking at a height that could be as low as 22.5 metres to 24.5 metres.

The Hon. M.J. Elliott: That is too low. It is risky.

The Hon. T.G. CAMERON: The Hon. Michael Elliott interjects and says that is too low, so I would have to confirm that two of the reports I read expressed concern about the height going any lower than 27 metres. If the Adelaide City Council conducted its lobbying so professionally, it actually convinced the Australian Labor Party to go in the wrong direction. If its lobbying was so professional and it was arguing the environmental and leachate dangers—I will not go through all the problems because the Hon. Terry Roberts knows them only too well—why did it not go any way towards convincing the Labor Party of the merit of its proposal? I am pleased to hear the contribution of the Hon. Terry Roberts because he has only convinced me even further that I am right to support the Government in its height proposition.

The Hon. SANDRA KANCK: My colleague the Hon. Mr Elliott asked the Hon. Terry Roberts about the basis for the Labor Party's decision making and suggested that one of the three multiple choice items was psephology, and I am inclined to think that that is the real basis for its position. Everyone knows that Port Adelaide Enfield Council is a Labor Party dominated council and, in this case, the Opposition is doing the bidding of the Port Adelaide Enfield Council. There is no logic to it at all. In fact, the amendment—

Members interjecting:

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

The Hon. SANDRA KANCK: The amendment that the Hon. Terry Roberts has moved will result in a still lower height of the dump, which means that the slope will be 3 per cent or less, and all the scientific evidence indicates that you play with fate when you do that. I indicate that the Democrats cannot support the Opposition's amendment.

The Hon. M.J. ELLIOTT: I want to respond to the Minister's comment which implied that the Democrats were not treating the issues of recycling with perhaps sufficient seriousness. At least she does not mislead as much as the Treasurer does. The Minister is quite aware from discussions that I had with her that I made proposals that would put a lot more pressure on recycling. I suggested that, rather than the cost of dumping increasing from $25 a tonne in Adelaide to $45 a tonne out at the new dumps, we should give Wingfield dump as long a life as possible and increase the dumping cost by $10 a tonne, which is halfway between the two. That $10 would have been a driving force to encourage recycling because it would be more expensive to dump. It would also have provided a significant amount of money that could have been used to take those programs further.

If the putrescibles, green waste and a lot of the recyclables were removed, the majority of what went to the dump would have been inert substances that would be safe to go into the dump at any height and would not have created a problem. The Minister knows that I put that proposal to her very early in the piece. To suggest that I would want to do anything which would discourage recycling is simply not a statement of fact. I do not know what height the dump should be, but I certainly argued that, as long as it lasts, we should try to encourage recycling by putting up the dump fees and use that money to generate a source of income to get done the things that need to be done in the recycling area. That increased cost would also be a driving force, while saving $10 a tonne on the dumping charges if we took the waste out of the city. It would have been a win situation all the way around. I am disappointed that there has been no sign, regardless of what height we go to, of that sort of action.

The Hon. DIANA LAIDLAW: I was interested in but am not going to dwell on the reflection by the honourable member that he does not know what the height should be. Certainly it would appear that the Adelaide City Council has not convinced him either, notwithstanding the contribution of the Hon. Sandra Kanck. The honourable member mentioned an additional charge. I have also discussed this matter with the Adelaide City Council and it may well be that in addition to the 5 per cent increase that it imposed last December there could be an additional charge.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: The Government does not issue the licence, the EPA issues the licence and has in its Act the capacity to charge a levy. The levy provided for now is charged and does help the operation of the EPA and the recycling effort. It may well be that the EPA will determine, as it is already empowered to do under the Act, to charge a higher levy on the Adelaide City Council. However, there is some difficulty in that.

I do not have the figures for dumping charges at Pedler Creek in the south. The EPA can assess the rate of levy it can charge at the Adelaide City Council dump if it so wishes as long as that did not put up the charge to such a high degree that we had all the rubbish trucks going from Wingfield right across town to the south. I am sure the member for Kaurna, the shadow Minister for Environment and Heritage and others would not want to see such a thing. I think it is best that the EPA, as part of issuing the licence, uses the powers that have already been entrusted to it to address this issue of levy arrangements.

There is very little difference of view between the Hon. Mike Elliott and me on that matter. I say quite confidently to him that arising from this Bill there will be some very intense discussions with the EPA, Planning SA, industry and the Adelaide City Council to ensure that we have a greater recycling effort. Local government will have to be very involved in such an exercise. This is not the end of the effort but the start of our effort in terms of a waste management strategy, minimisation of waste and resource management generally.

Amendment negatived; clause passed.

Clauses 4 and 5 passed.

Clause 6.

The Hon. SANDRA KANCK: With regard to the closure date (clause 6(4)(b)), the Minister has been saying that the Adelaide City Council does not effectively recycle so

presumably we will see more recycling as a result of this Bill passing which means that the amount of rubbish that goes into the dump will be reduced. If we reach 31 December 2004 and we find that the height of the dump has reached 23 metres and we know that there will be settlement after that, given the EPA's own bans about suitable heights and the potential for that height to have been reached and given that recycling is expected to occur, that could result in a height that is environmentally unsuitable according to the EPA's guidelines. Under those circumstances what will the Government do?

The Hon. DIANA LAIDLAW: The closure date is definitely no later than 31 December 2004 in terms of the collection of rotting and industrial waste, not clean waste. If the scenario—and I doubt it—turns out as the honourable member has outlined, that it is 23 metres by the end of the year 2004, the Adelaide City Council could still continue to take clean waste. At the growth rate that is predicted it is hard to envisage that the scenario outlined will arise.

The Hon. T.G. CAMERON: Whilst it may be hard to visualise, what if we did end up in that situation?

The Hon. DIANA LAIDLAW: Then it can continue to accept clean waste. I also highlight here that it will be working very closely with the Landfill Environmental Management Plan and it must, in terms of its liabilities and the EPA's responsibilities, make sure that it is enclosed in an environmentally sound fashion. That will be critical. That is why this opportunity for clean waste in terms of adjustments and things will be necessary.

The Hon. SANDRA KANCK: I follow up on this issue of height and date. Which of the two things is the most important to the Government, the height or the date?

The Hon. DIANA LAIDLAW: That will be fully outlined in terms of the Landfill Environmental Management Plan. I do not set those. The Parliament will not but the EPA will. We have given the broad parameters and the fullest extent possible, but the management of those issues will have to be an agreement as part of the issuing of the licence.

The Hon. SANDRA KANCK: Does the height closure include capping or is capping to occur afterwards? What depth of capping is envisaged?

The Hon. DIANA LAIDLAW: It includes capping, that is why the words provide that after subsidence it settles at 27 metres. So it would have the cap and after it has settled it cannot be higher than 27 metres.

The Hon. SANDRA KANCK: How long does the Minister envisage it will take to be able to get the dump into the appropriately contoured shape with capping?

The Hon. DIANA LAIDLAW: I am not an expert and I do not have the reports before me that have been prepared by the consultants. If the honourable member would like me to refer officers to her from the EPA I would be happy to do so.

The Hon. Sandra Kanck: You can write to me afterwards.

The Hon. DIANA LAIDLAW: Yes, I will do that.

Clause passed.

Clause 7.

The Hon. T.G. ROBERTS: On the basis that the previous amendment was defeated, I will not proceed with my amendment to this clause.

Clause passed.

Clauses 8 to 14 passed.

Clause 15.

The Hon. T.G. ROBERTS: The Opposition indicates that it will oppose this clause, mainly on the basis of certainty and, once the decision has been made, the Opposition's view is that everyone should be able to plan around the Bill. It should release any acrimony that might arise if there were some reviews or open ended processes whereby appeals could not be heard.

The Hon. SANDRA KANCK: I indicate that the Democrats will oppose this clause. In all the consultations in which I have been involved, the only view held in common by both Port Adelaide Enfield Council and Adelaide City Council was in relation to clause 15. Both councils told me that they do not want to have that right of appeal taken away from them. It is something that they prize strongly, and I indicate that I am delighted in this case to find myself supporting both councils.

The Hon. NICK XENOPHON: I am delighted that the Hon. Sandra Kanck is delighted and I, too, oppose clause 15. Removing appeal rights is something that I find repugnant, and for that reason I oppose the clause.

The Hon. DIANA LAIDLAW: I am delighted that there is so much harmony in this Chamber after debate earlier this evening. I highlight that the very reason that both councils agree that the appeal provisions should be out are the very reasons why they are in: because of the history of this matter and the enthusiasm of both councils to resort to the court rather than trying to work these issues through for the individual and common good.

I also highlight that the appeal provisions certainly remove the right of judicial review of a decision by either the Environmental Protection Authority or the Minister under the Act and, therefore, in effect, avoid any possibility of an appeal by either the Adelaide City Council or the Port Adelaide Enfield Council against a decision of the EPA in relation to the guidelines for landfill environmental management plan, and also avoid the possibility of an appeal by either council against the decision of the Minister in relation to a subsequent adoption of the management plan.

Never at any time, however, have we sought to avoid the possibility of appeal against the licence provisions—and I want to stress that. I also highlight that similar provisions do not exist in the Environmental Protection Act, but more onerous provisions in terms of planning law exist in the Major Developments and Projects Division of the Development Act 1993 (section 48E). I will not go into depth in terms of those more onerous appeal provisions in the Major Developments and Projects Division of the Development Act, but I highlight, particularly for the benefit of the Hon. Nick Xenophon who has taken exception to this, that this is not unusual in terms of planning law in this State.

The Hon. T.G. CAMERON: It is my understanding, too, that both councils oppose clause 15. I have no desire to ruin the party. I am delighted to oppose it, too.

Clause negatived.

Clause 16 passed.

Title passed.

Bill read a third time and passed.

WORKING HOLIDAYS

Adjourned debate on motion of the Hon. C. Zollo (resumed on motion).

(Continued from page 1025.)

The Hon. P. HOLLOWAY: I move:

In paragraph 2 leave out the word 'initiate' and insert the word 'continue'.

I have moved this amendment to recognise the fact that negotiations have been going on for some years in relation to the subject matter raised by the Hon. Carmel Zollo. Indeed, that was a matter which the Hon. Carmel Zollo pointed out in her original speech. Unless there be any confusion about this matter, I think it is helpful to move the amendment in order to clarify the situation.

It appears from the debate we have heard so far that everyone agrees with the sentiment of the motion. The Hon. Carmel Zollo is to be congratulated for moving the motion. It is clearly in the interests of the young people within our community that they should have the opportunity to have working holidays overseas and, similarly, that young persons from Greece, Italy and Cyprus should have the opportunity to have working holidays in Australia. It can only be for the good of the community, and I congratulate the Hon. Carmel Zollo for moving her motion.

The Hon. T.G. CAMERON: I have some concerns with the motion, and I will attempt to clarify them. I have no concern whatsoever with any steps, whether they be taken by a Labor or Liberal Government, to try to have as many countries as possible have reciprocal arrangements to allow our young people and their young people to work in our countries. But I did hear the contribution that was made by the Hon. Julian Stefani, and I was unaware that we were so far down the path.

The Hon. Carmel Zollo: You should have heard mine, too, then.

The Hon. T.G. CAMERON: Well, I did read your speech. I was a little concerned to hear that the Federal Government is already having discussions and that we are close to arriving at a final conclusion on it. My concern is about why we have included only Italy, Greece and Cyprus in the motion. On the information that I read in relation to this it would appear that there are no reciprocal arrangements with well over 100 countries around the world. As I understand it, there are many more countries which do not have reciprocal arrangements with Australia. My concern is: why are we not including all the countries with which we currently do not have reciprocal arrangements? I could point to France, Germany and to the Scandinavian countries. I wonder why we are not interested in having reciprocal arrangements with those countries.

The Hon. M.J. Elliott: Have you got an amendment?

The Hon. T.G. CAMERON: No, I don't have an amendment. I also raise the question why we are not attempting to seek reciprocal arrangements with our nearest neighbours. If you happen to be a South-East Asian or from an Asian country and you are not a millionaire, try getting a tourist visa or a student visa into this country. I support the thrust of the resolution as it seeks to provide for reciprocal arrangements with other countries, but my concern is: why do we just have Italy and Greece—and now Cyprus—tagged onto the end of this resolution? Why do we not move a general resolution which encourages this Parliament to persuade the Federal Government to seek reciprocal arrangements with as many countries as we possibly can? Perhaps the Hon. Carmel Zollo can inform us later, but I wonder why we are restricting this to Italy, Greece and, now, Cyprus.

The Hon. Carmel Zollo: Well, read it.

The Hon. T.G. CAMERON: I did read it.

The Hon. M.J. ELLIOTT: I rise on behalf of the Democrats to support the motion. I will speak only briefly, because as others have noted this is really a Federal Government matter. But I do not want people to think that by our silence we do not support the content of what is within the motion. The expansion of this scheme to these other countries makes perfect sense. I suppose that the Hon. Terry Cameron made some valid points in terms of 'Why not some other countries?' I suspect at this stage that it is largely an immigration decision in so far as the countries with which we currently have such arrangements, and the countries that are proposed here are countries where for the most part we are not likely to have people who in fact try to turn what is a working trip into a permanent residency. That is a real concern in relation to some countries. To that extent, I understand why an expansion of such a scheme is undertaken carefully. If I have any concern, perhaps some time later when I am between jobs I would not mind doing a working holiday myself. I never did the backpacking trip when I was young—

An honourable member interjecting:

The Hon. M.J. ELLIOTT: What about us old folks? Why can we not have three month working holidays in Italy, Greece and Cyprus and *vice versa* as well? It is a somewhat ageist notion incorporated within this motion, but that still is not sufficient reason for me to want to amend it at this stage. The Hon. Julian Stefani has raised a couple of issues, one of which has now been addressed by a further amendment moved by the Hon. Paul Holloway. The current motion refers to initiating talks, and it has been noted and accepted, it appears by the Labor Party, that such negotiations indeed are already well under way.

An amendment to change 'initiate' to 'continue' has been picked up by the Hon. Paul Holloway. As such, much of what has been proposed by the Hon. Julian Stefani has now been properly addressed. I will ask the Hon. Carmel Zollo, when she concludes the debate, to address new paragraph 4 which has been proposed and which states:

. . . strongly supports the efforts being made by the Governments of Australia, Italy, Greece and Cyprus in facilitating reciprocal arrangements for working holiday visas for young people.

That to me seems reasonable on the surface, but it has not really been debated. It has been moved by the Hon. Julian Stefani but has not been responded to by the Labor Party. On the face of it, it seems a reasonable amendment for that at least to be included even if the proposed new paragraphs 2 and 3 have been adequately addressed by the Hon. Paul Holloway's amendment. With those remarks, I indicate the Democrats' support for the motion.

The Hon. CARMEL ZOLLO: First, I thank the Hon. Nick Xenophon for his contribution and am pleased to accept his amendment. I certainly should have thought in terms of Hellenic culture rather than Greek. I am aware, of course, that there are a substantial number of people in Australia of Greek-Cypriot background and that such exchanges would be welcomed by the community. The sentiments expressed in my motion are pretty clear: to bring to the attention of the Federal Government that there is strong support in the community for signing of formal agreements for reciprocal working holidays for our young, especially with the countries mentioned in the motion.

I do not believe that the Hon. Julian Stefani's amendment adds anything that I did not address in the explanation of my motion; in fact, I wondered whether the honourable member

had actually read it. The honourable member's amendment destroys the spirit of the notion; I am disappointed by it.

The Hon. J.F. Stefani interjecting:

The Hon. CARMEL ZOLLO: Excuse me, but it has nothing to do with Peter Louca. Goodness gracious, how petty! I am prepared to admit that I was careless in my wording. I should have used the word 'continue' rather than 'initiate'. I am pleased that my learned colleague, the Hon. Paul Holloway, has addressed my enthusiasm by moving his amendment, an amendment which could just as easily have been moved by the Hon. Julian Stefani; indeed, I offered him the opportunity to do so. Nonetheless, I listened to what the member had to say and am pleased that he offered qualified support. As such, the honourable member should have no problem, given that this should be a strong bipartisan issue, supporting the motion as amended by the Hon. Paul Holloway, because the substitution of that single word 'continue' rather than 'initiate' should take care of his concerns.

I am pleased to report that I have received some very positive comments of support from the community in relation to this motion, including the peak ethnic body in South Australia, the Multicultural Communities Council. In my feedback from the community it has also been brought to my attention that other well established ethnic communities, in particular the German and our Polish communities, would also benefit and welcome such reciprocal agreements.

Professor George Smolicz of the Centre for Intercultural Studies and Multicultural Education at the University of Adelaide also supported the motion and wrote:

> As you point out in the *Hansard*, so far only seven are included in the existing scheme and you rightly advocate its extension to Italy and Greece. The Centre gives full support to your initiative, but would like to suggest that the list of new countries should be increased to include other European countries, for example, Spain and Portugal in Western Europe and Germany, Poland, Hungary and the Czech Republic in Central Europe.

The Hon. J.F. Stefani: They have not responded to the Federal Government. It is in the report.

The Hon. CARMEL ZOLLO: This is point I am making: that we encourage them. The Professor continued:

> Since there is already relatively free movement of people among these countries, with no visa requirements between them, it would seem most appropriate to include them in the list.

As I indicated when moving the motion, I am aware that the Federal Government is activity engaged in talks with quite a few countries, including Cyprus, Italy, Greece, Spain, France and Israel. I certainly see no reason why countries mentioned in Dr Smolicz's correspondence which have not already been approached by our Government be also approached with a view to signing formal agreements or arrangements. Of course, I also referred to the report titled, 'Working Holiday Makers; More than just Tourists', and mentioned its findings in my explanation of the motion.

I would like to take the opportunity to thank His Excellency, Dr Giovanni Castellaneta, the Italian Ambassador, for indicating his support of the motion and expressing his confidence that formal agreements between Italy and Australia would be reached. I believe any scheme which encourages international understanding and provides opportunities for resourceful, self-reliant and adaptable young people to experience life in other countries through holiday travel and some work experience should be supported. With a scheme such as this one, which can involve our established ethnic communities, such as the Italian, Greek and Cypriot communities, we have the added advantage of both cultural and economic exchanges to the benefit of all. Perhaps that might answer the Hon. Terry Cameron's question.

The communities that I included in this initial motion certainly are established and, as I have said, in moving about in the community, people have expressed a wish to see such formal agreements. One has to start somewhere. We are in a unique position to take advantage of our European heritage and geographic position in Asia. We are part of both worlds. I feel so strongly that the amendment proposed by the Hon. Julian Stefani loses the spirit of the motion—and I am very disappointed to have heard his interjection—that I am prepared to lose the motion and take up the matter with my Federal colleagues and for them to continue lobbying at the Federal level.

Again I thank members for their support, in particular the Hon. Nick Xenophon, the Hon. Paul Holloway and the Hon. Mike Elliott. The Hon. Mike Elliott said that he saw no problem with paragraph 2B of the Hon. Julian Stefani's amendment.

The Hon. M.J. Elliott: New paragraph 4.

The Hon. CARMEL ZOLLO: I could say that it is now taken care of under paragraph 2, which is as follows:

> Calls on the Federal Government to continue discussion with a view to entering into a formal arrangements with Italy, Greece and Cyprus which allow young citizens. . .

I thought it was the same thing but, if that is the honourable member's wish. Is the honourable member happy to leave it the way it is or does he want that included?

The Hon. M.J. Elliott: I want to know if it created any real problem and it appears that it does not.

The Hon. CARMEL ZOLLO: It does not create a new problem; I think it reiterates paragraph 2. Therefore, I am quite happy to have that included. I would also like to thank the other members for their contribution to the debate.

The Hon. M.J. ELLIOTT: I have indicated that I was going to support one of the amendments moved by the Hon. Julian Stefani, but would note that it would only make sense if it was incorporated between paragraphs 2 and 3 of this motion. So there are questions of numbering and questions of how it will be put.

The PRESIDENT: Will the honourable member indicate which paragraph of the Hon. Julian Stefani's he is supporting?

The Hon. M.J. ELLIOTT: I intended to support the paragraph which is titled new paragraph 4. Effectively it would be new paragraph 2B. I indicate that, if paragraph 2B can be put separately from the rest, that will be something on which I can vote.

The PRESIDENT: The question is that the words proposed to be struck out by the Hon. Julian Stefani in paragraph 2 from its beginning down to but excluding the word 'initiate' stand part of the motion.

Question carried.

The Hon. P. Holloway's amendment carried; the Hon. Nick Xenephon's amendment carried.

The PRESIDENT: The question I now put is that new paragraph 2A be inserted, as proposed by the Hon. Julian Stefani.

Question negatived.

The PRESIDENT: The question then is that new paragraph 2B, which is also as moved by the Hon. Julian Stefani, be inserted.

Question carried; motion as amended carried.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: RURAL ROADS

Adjourned debate on motion of Hon. J.S.L. Dawkins:

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

(Continued from 10 March. Page 881.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): I support the motion. I commend this report of the Environment, Resources and Development Committee and I thank the members of that committee and all those who appeared before it who made submissions for their contributions. I believe it raises some fundamental questions about the way in which we implement our road safety strategy in South Australia.

I would like to place on the record the appreciation of members on this side of the Chamber to the South Australian Road Safety Consultative Committee chaired by Sir Dennis Paterson. The committee prepared its report after being commissioned by the Transport Minister to look into ways in which this State could achieve national and State road safety targets by the year 2000, and indeed beyond. Having read the report and the Environment, Resources and Development Committee's response to it, I am baffled at the way in which the Minister has treated Sir Dennis and the other members of the committee.

The Minister had not met with the Chairman, Sir Dennis, for 20 months, from 29 August 1996 until 29 April 1998—a period of almost two years—despite numerous verbal and written requests. Indeed, the Road Safety Consultative Committee report was handed down in January last year, and it took the Minister four months to meet with the members of that committee. This was an extraordinary turn of events, when one considers that the Minister appoints the members of that committee. She decided not to reappoint those members of the committee, something that Sir Dennis said, in a letter to the Minister, stemmed from difficulties with her Cabinet and parliamentary colleagues.

Happily, the Parliament's Environment, Resources and Development Committee spent this time doing something productive, that is, looking at the recommendations of the consultative committee and making comment on them. On the whole, I commend the recommendations of the committee and I look forward to the implementation of the recommendations.

One of the most striking features to emerge from the committee's report is the crisis facing rural drivers and rural communities. I take the following figures from the committee's report. For all crashes in 1994, 83 per cent of them occurred in the urban region. However, with respect to serious crashes, nearly half—that is, 45 per cent—were in the semi-rural and rural regions. In the semi-rural region, 50 per cent of the drivers and riders involved in serious crashes (fatal and serious) were locals. In the rural regions, 73 per cent were locals. Many of the submissions relating to country crashes mentioned four common factors: speed, alcohol, the failure to wear seat belts and fatigue.

Evidence from the RAA suggests half the people killed so far in crashes on country roads were found not to be wearing seat belts and, most alarmingly, the RAA study of child restraint wearing in country areas revealed the appalling facts that half the children under six months were travelling inadequately restrained and 75 per cent of children aged from six months to eight years were travelling inadequately restrained.

Further evidence from the police indicates that failure to wear seat belts is a national problem, with some research showing that only about .2 per cent of men in utilities, as passengers or drivers, were wearing seat belts.

In the light of these figures, I think we must make it a high priority to put in place public education campaigns about the dangers of not wearing seat belts. I would have thought that the evidence was very clear, and has been for many years now, that the wearing of seat belts saves lives. I know from first-hand experience that this problem is not restricted to country people alone. Many people in the city do not wear seat belts, and what I find most disturbing is that they do not take care to ensure that their children are properly restrained.

It angers me every time I see a young child sitting on an adult's lap in the front seat of a car. They must be oblivious to the simple physics of what would happen to that child in a car crash. How long does it take to do up a seat belt? It is an action that is simple, costs nothing and can save lives.

I do not mean this to seem like a criticism of country people, but the combination of this failure to restrain, with the other factors that I mentioned (speed, fatigue and alcohol), means that country people are more at risk of dying on our roads. Whatever the reason, our priority must be to reverse this trend, and I commend the recommendations in the report aimed at addressing this.

As well as public education campaigns these include: completion of a safety audit of our country roads, with priority given to those rural arterial highways and urban arterial roads zoned at 110 km/h; a road audit to consider the suitability of the classes of vehicles using particular routes; the development of programs aimed at stressing the dangers of driver fatigue and the need to take rests from driving long distances; and the improvement of traveller rest stops.

Something which the Road Safety Consultative Committee did not address and which formed a section of the Rural Road Safety Action Plan by the Road Safety Consultative Committee was Aboriginal road safety in remote areas. This is a concern, and I hope that the Minister can address this issue.

The Road Safety Consultative Committee's report raised some disturbing information about Aboriginal people and road safety and I think that, if we are to have an impact on the fatalities and crashes in rural areas, we must look at this area as a priority. The report said that, while Aboriginal people make up 1.25 per cent of the total South Australian population, they represent 4 per cent of the road deaths. And Aboriginal motor vehicle passengers are the largest user group injured by pedestrians. Like all rural and remote communities, Aboriginal people have to deal with the issues of remote access, but these are magnified for those living in those northern communities. They travel long distances on unsealed roads, there is little medical help nearby if there is an accident and there is, unfortunately, at times, the issue of alcohol, too.

An honourable member interjecting:

The Hon. CAROLYN PICKLES: Certainly no public transport. I understand that the Road Safety Consultative Committee recommended measures to be put in place, with the collaboration of Aboriginal communities, and I support this measure.

With respect to the financial implications of the recommendations, the committee recommends that funding be made available immediately to complete the safety audit of the

remainder of the national highway and rural arterial road network. It suggests that part of road camera revenue should be used to finance public road safety education campaigns and rural road improvements. I would very much like to hear the Minister's and the Treasurer's response to this.

Perhaps the most contentious suggestion is with respect to recommendation 6: that careful consideration be given to the implementation of mobile random breath testing, taking note of the public's concerns regarding the potential infringement of civil liberties. I know that this recommendation has the support of the RAA, and I believe that it is an option worth considering in country areas. Certainly, I think that the recommendation was directed mostly at country areas.

I think the questions that we have to ask ourselves are as follows. Do we think that road safety should be at the top of our agenda? The answer would be 'Yes.' Do we think we must immediately put in place some of the recommendations of both the Road Safety Consultative Committee and the Environment, Resources and Development Committee? The answer must be 'Yes.' These issues should have been dealt with by now. As the committee's report says in its 'Comment' section, the draft action plan was completed two years ago, and it questions whether the 1999 completion date for road audits is still appropriate and achievable.

In the Minister's response to the committee's report, she outlined details of money spent on road safety related programs and initiatives, and I welcome them all, in particular, the acceleration of Transport SA's audit program so that 11 000 kilometres of major arterial roads and national highways across the State will be audited over the next two financial years.

I also note that Transport SA is moving forward on the issues of audio and tactile warnings to drivers, the erection of road signs, traveller rest stops and education campaigns. It seems, though, that the Minister is again ducking and weaving on the more controversial aspects of the ERD Committee report.

The ERD Committee recommended that careful consideration be given to mobile random breath testing. The Minister says that discussions are taking place between Transport SA, SA Police and Crown Law to consider the civil liberties issues. I hope that those considerations can be expedited so that we can have some final resolution of this issue.

The ERD Committee also suggests that part of road camera revenue should be used to finance a public road safety education campaign and rural road improvements. I note that the Minister avoided this issue in her response.

Notwithstanding the positives that I have outlined, I feel that we have let crucial time elapse before seeing some of the recommendations of a draft action plan put in place. I share the Minister's concern at the devastating effects of our road toll. We owe it to the community and to everyone touched by the terrible tragedies that unfold on our roads every day, not just through death but through injury. When we look at the road statistics, very often we confine ourselves to the deaths on the road and we pay very little attention to the ongoing cost to the community and the ongoing social effect of trauma caused by road crashes. I commend the committee for its very serious look at these difficult issues and I think that its measures should be implemented without delay.

The Hon. J.S.L. DAWKINS: I thank all members for their sincere contribution to this debate, which relates to issues that are very close and concerning to all of us. I also thank the Minister for her initial response in this Chamber last December at the time the report was tabled and this motion was moved. She recently concluded her contribution. The Hon. Terry Roberts might recall that some of our colleagues on the ERD Committee who are members of another place were astounded to learn that a Minister would respond so quickly in the Chamber. They had never heard of anything like that, so perhaps that is another plus for the Upper House.

It is unfortunate that some media interpretation of the report has created a level of confusion in some eyes about what the committee recommended, particularly in relation to speed limits. In fact, I noted a newspaper report the other day in which a local government CEO criticised the report and the Minister for recommending that money be spent on audits, because he thought that that money should be spent only on fixing up the roads in his patch. However, I feel that the report has generally been well received in the community and I am pleased to commend the motion to the Council.

Motion carried.

GROUP 65 MEDICAL PRODUCTS

Adjourned debate on motion of Hon. Sandra Kanck:

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 of Information and Administrative 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.

(Continued from 10 March. Page 903.)

The Hon. P. HOLLOWAY: In speaking to this motion on 9 December 1998, the Hon. Sandra Kanck made a number of serious allegations concerning arrangements for the purchase of medical supplies. These included: $20 million wasted each year within our public health system; hospitals missing out on potential savings of 20 per cent on $80 million annual purchase costs; purchasing arrangements not fair or open; purchasing arrangements lack integrity; client service and efficiency compromised; a lack of accountability; local suppliers disadvantaged; and contracts let without a proper evaluation process. If any of those allegations had substance, they would warrant a stronger motion than to call on the Minister for Administrative Services and the Minister for Human Services to intervene to ensure that the health system is getting value for money. They were the allegations.

What about the Minister's defence? On 10 March, the Minister for Disability Services responded to the motion and denied the allegations. The Minister said that he had closely examined the allegations because they were serious and were taken seriously by his department. The Minister also said that it had not been possible to examine any evidence, documentary or otherwise, because none had been forthcoming. On the basis of not having examined any evidence, the Minister then went into a long explanation of the Government's procurement reform strategy, which sets up 10 new purchasing agencies in each key department, with each CEO accountable

for purchasing and outcomes, and denied that the allegations had any substance.

The Minister challenged the claim that $20 million was being wasted on the basis that the Hon. Sandra Kanck had not produced one skerrick of evidence and that savings amounting to 25 per cent of the $80 million cost of supplies were illusory. The Minister said that savings across newly negotiated consumable and capital equipment contracts was 10 per cent, but then in a statement that suggested that his defence was a matter of semantics the Minister quoted examples of contracts that had made greater savings—12 per cent for sharps containers, 21 per cent for ultrasound units, 15 per cent for lasers, and 13 per cent for coagulation analysers.

Another interesting piece of information offered by the Minister was that the Supply Board had received independent reports from Crown Law and the probity auditor on the method that was used by State Supply to establish a contract that resulted from a request for proposals for the supply of Group 65 medical products back in 1997. This raises the question of why independent reports were required. The Minister also justified the renewal of several contracts beyond their initial terms of three years without calling new tenders because the potential for greater savings came from rolling out procurement reform and it was decided to extend the contracts and allow the resources to be focused on the reform process.

In other words, the Government abandoned the usual rules concerning the calling of tenders because it could not do two things at once, and that probably goes some way to explaining why suppliers have complained that the new system was not working. The Minister also said that the new human services procurement unit is now 'positioned to take over the day-to-day management of medical contracts'. That is 10 months after the new strategy was announced.

I turn now to the subject of the Hospitals and Health Services Association (HHSA) purchasing arrangement. The Hon. Sandra Kanck referred to the purchasing arrangement whereby the HHSA acted as a purchasing agent to bulk hospital orders and the savings that this arrangement had achieved. I am informed that the council of the Hospital and Health Services Association has decided to terminate the purchasing agreement effective from 21 March 1999 because it was clear that the arrangement was not supported by Supply SA. Government seeding funding of $400 000 to establish the purchasing agency will be written off.

In summary, while the Opposition does not have any hard evidence to support the allegations made by the Hon. Sandra Kanck, we have heard the same stories and complaints over a period of time. Current advice from our sources is that potential savings have been sacrificed in the confusion. The Minister's contribution was in our view unconvincing, given his admission that he did not seek any evidence. The establishment of the new super-duper Human Services Department, combined with a change in purchasing policy has, as confirmed by the Minister's own statement, resulted in changes to normal tendering arrangements and I suggest that this caused considerable disquiet among some local suppliers. At best, this is yet another chapter in the *Yes, Minister* series of first we centralise and then we decentralise *ad infinitum*.

How should we as an Opposition respond to the allegations, given the lack of evidence? I propose to move the amendment that has been circulated in my name. It does basically two things. The first part recognises in the original motion moved by the Hon. Sandra Kanck that the allegations are indeed just that—allegations—and that if this Council is to note them we should note them as allegations. We think that should be done in fairness to the Government.

The second part of my amendment is that, given that we have also heard the same stories, we believe that such serious allegations warrant some investigation. Therefore, I move:

1. After 'That this Council notes' insert the words 'allegations have been made'.

2. Leave out all words in the last three lines of the motion and insert—

and this Council therefore requests the Auditor-General to conduct an inquiry into purchasing arrangements for health services and public hospitals in South australia and in particular—

I. The implementation of the Procurement Reform Strategy in the Human Services Department and whether the Procurement Reform Strategy has achieved its stated outcomes;

II. The probity of extending existing contracts without calling tenders;

III. The probity of arrangements since 1997 for the purchase of Group 65 products based on a request for proposals and complaints by suppliers concerning purchasing arrangements; and

IV. Whether the limit of delegations for procurement to the Chief Executive Officer of the Department of Human Services is appropriate for the savings target.

In conclusion, we believe that the amendment we have moved is the best way we can respond to this matter. Serious allegations have been made by the Hon. Sandra Kanck. While recognising these as allegations we believe that the Auditor-General should have a look at the particular practices given the concession by the Minister that there are problems in this area. I ask the Council to support my amendment to the motion.

The Hon. SANDRA KANCK: I am most pleased to receive the Opposition's support for my motion and I am more than happy to accept the amendment. I am in the process of preparing a package to go the Auditor-General about this so the formal drawing of attention by this Council to what has been occurring with Group 65 can only help to uncover the truth.

From the time I introduced this motion last December our health system has not got any healthier. The Out of the Blue program based at the Flinders Medical Centre which was a specialised service for youth mental health problems has now closed its doors due to a lack of funds. At a time when youth suicide is increasing it is distressing that a program that was meant to be funded by the State Government after one-off Commonwealth funding has been scrapped.

Julia Farr Services, which has had its budget cut over the past six years, can make no further cuts without affecting the standard of care provided to its residents. It already has a waiting list of people who are, in the mean time, occupying acute hospital beds. The public is told that there is no money to fund these projects yet the fact remains that significant savings could be made today if the Government observed its principles in the SA Government Reform Strategy. The fact that the money is not being saved and put back into our health system is scandalous.

In December I outlined savings on just five products from Group 65 which would bring savings to this State of approximately $2 million. These savings would have been able to maintain the Out of the Blue program with some money left over. The saving would also help to balance Julia Farr Services' budget with no effect on current services.

The main focus of the Minister's response was that firm evidence was not forthcoming. I am sure that members would be aware of the sensitivity involved with revealing names of

suppliers and manufacturers as doing so could jeopardise future Government contracts for them. Having said that, I can indicate that a few companies now feel that their tenders and any future contracts are already jeopardised with the current state of play and they are happy to be named in *Hansard*.

The matter is of grave concern and I strongly state that the Minister is making a huge error by simply sweeping the matter under the carpet. If the Minister is concerned with the evidence I advise him that he ought to meet with the suppliers and manufacturers who have spoken to me and who are willing to do this provided they have a guarantee of confidentiality. Having acknowledged the serious nature of my motion and the accusations, I am sure that the Minister will want to continue looking at this matter closely.

The ramifications of poor procurement practices are far reaching. Group 65 medical products are just one group where possible savings are being lost. There are 30 others about which I know nothing, but if this is happening with Group 65 products then who knows if everything is going well with the other groups. The Government's Procurement Reform Strategy is sound in principle but sadly lacking in application, which is costing our public hospitals dearly.

In response to the Minister's comments on 10 March I will be writing to him with questions that arise. I also want these questions placed on the public record so that the public interest is best served. The questions I will be asking the Minister will make up the bulk of my response and they are as follows. The Minister indicated that the Reform Strategy introduced in May 1998 would deliver benefits of $72 million per year, therefore to date it should have provided savings of about $65 million *pro rata*. I will be asking the Minister to itemise these savings to see whether the targets are being achieved.

As part of the strategy detailed by the Minister on 10 March, procurement staff, he said, are being upgraded from clerical level to professional level. I am curious to know what impact such a policy has had on staff salaries and wages. The Minister stated that the Director of Supply SA has been delegated 'relatively low value contracts' by the Supply Board. My letter to him will ask for details on how many contracts the Director has proposed to the board, how many have been signed off, the products involved, the value of each contract, the name of the successful tenderer in each case and which of these contracted products will be distributed by Supply SA.

The Minister stated that 24 health product contracts have been negotiated. I will be seeking from the Minister details of each of these contracts including what sort of products were involved, how many were Group 65 medical products, the names of the successful suppliers and whether any of these products will be distributed by Supply SA. The Minister indicated that a local supplier was deemed by health units as not providing the best value for money for the supply of sharps containers. I will be very interested to hear from the Minister which health units provided this advice and which officers were involved.

The Minister stated that the sharps container contract was decided after due consideration by a committee involving health unit officers and medical professionals. I trust that the Minister will be willing to provide me with a list of the health units represented on the committee and the names of the individuals who provided that advice. As members will see when I progress my response to the Minister's contribution, I have grave doubts about the accuracy of the advice given to the Minister.

P and I Waste is a South Australian company that manufactures and supplies sharps containers, that is, plastic containers that are used for the disposal of needles, knife blades and that sort of equipment, to every mainland State except South Australia. John Cook, the owner of P and I Waste, tendered in 1997 for his sharps containers to be used in South Australian public hospitals. His company was shortlisted and if his tender had been successful the employment at his factory would have increased by 15 per cent to 19 per cent.

Early in March 1998 he was asked to revalidate his prices and extend the tender for a further 12 months at the same price. Mr Cook agreed to do this. He also confirmed that he would replace existing wall brackets used for the containers at no cost to the hospital. Shortly after, on 19 March, he was informed by Supply SA that he was unsuccessful. He was not given any reason for his failed tender nor did he receive any written communication to that effect. Mr Cook tried to meet with the Director of Supply SA, David Burrows, on this matter but was unsuccessful until approximately 10 days ago, which is just under a year later, when he was called to a meeting by Mr Burrows.

What is concerning about the P and I Waste tender is the questionable evaluation process which was claimed to have taken place. A committee of 12 medical professionals and health unit officers is meant to meet on several occasions to discuss the product and then provide recommendations.

A trial of the product is meant to occur in a hospital setting; comments forwarded and discussed; then a recommendation put to Supply SA. Of the 12 committee members, only one seems to have given any comments on P&I Waste's products. The comments made—and I have a copy of them—were inaccurate. Among the disadvantages listed was that the container occupied bench space. Well, unless Supply SA has invented new laws of physics, it is blatantly obvious that any container will take up space.

The document claims that there were no handles for the 2.8 litre container when it has not one but two handles. It claims that the 1.4 litre container will not fit into the current point of use tray. That is simply not true. It states that hospitals would have to spend more money for installation of this new container when, as I have previously mentioned, P&I Waste undertook to bear the cost of installation.

This so-called evaluation claims that the square shape of the five litre container is not practical to be placed on the side of an IV trolley. Yet the five litre container is currently being used throughout the nation. There is industry concern that the sharps container contract was awarded on the strength or lack thereof of these recommendations.

One of the 12 members of the evaluation committee has informed my office that he received no communication about the evaluation process and only found out that the contract had been awarded as a consequence of speaking with my research assistant—and he wanted to know to whom it had been awarded. He certainly was not involved in deliberating on a recommendation in conjunction with the committee appointed to do so.

In the recent meeting that Mr Cook had with Mr Burrows, Mr Burrows told Mr Cook that the sharps container evaluation had taken place in other major hospitals and not the one where his health professional works. How very convenient. Incidentally, Mr Cook has now received, for the first time, written confirmation about the failure of his tender in March 1998.

Another interesting point raised by the Minister was a recent inquiry by the Crown Solicitor and an independent audit of a recent contract managed by Supply SA. Why was Crown Law brought into this matter? My research indicates that the investigation was initiated due to the potential signing off of a syringe and needle contract. Tuta Laboratories tendered for this contract (RFP 246/97), lodging its tender in February or March 1997. But, in December 1997 the Director of Supply SA wrote to the prospective tenderers advising that the contract had been withdrawn from tender because of the new procurement reform strategy. No further communication was received from Supply SA.

Then, out of the blue, McNeil Surgical Suppliers, a South Australian company which would have acted as the distributor for the Tuta Laboratories products (if the tender had proceeded and been successful), was alerted to the fact that a recommendation on the tender was back before the board. Tuta Laboratories and McNeil Surgical had not been advised that the process had been continued. There had been absolutely no communication either about short listing or retendering, and the Tuta Laboratories product had clearly not been evaluated. In short, the proper process had not been complied with.

The Hon. R.D. Lawson interjecting:

The Hon. SANDRA KANCK: Because, as I said earlier on, some of these companies were not prepared to go on the record until they heard what the Minister had to say a couple of weeks ago. In response, McNeil Surgical wrote to the Supply Board Chair, Anne Howe, who was on sick leave, but the Acting Chair, Elizabeth Durward, to her credit, initiated an investigation into the tender process once the concerns were raised. But, this was not to be any ordinary interdepartmental investigation. A much bigger investigation was in the offing.

Initial findings were forwarded to the Crown Solicitor. Then an independent consultant agency based in Canberra, a company called PSI Consulting, was brought in. I am rather curious about this investigation. Why was the investigation of Crown Law not sufficient? Why was a Canberra company, about which I can find nothing, brought into the investigation and what can the Minister tell us about this company? Is the Minister confident that PSI Consulting has no interest in these matters? What was the advice given to Supply SA by PSI Consulting and is he willing to provide a copy of that advice to us? These are just some of the questions I will be asking the Minister when I write to him.

The Crown Solicitor concluded that no procedural unfairness resulted from the letter of December 1997. Despite these findings of no impropriety, the Supply Board thought it reasonable because of the time elapsed to revalidate the bids of the original respondents. Why do this if there was nothing wrong with the process? A letter from McNeil Surgical Suppliers, a copy of which I will be able to provide to the Minister, states:

> . . . we do appreciate the extent to which the board has gone to provide answers to our requests. There seems a misconception that our intent was to witch hunt. . . The issue for us, in essence, is that the procedures utilised to arrive at the shortlisted bidders had many flaws contained within and, as a result of poor communication and evaluation processes, the bid proposed by our client in the original request for proposal was discounted, we believe, without sound grounds.

The Hon. A.J. Redford interjecting:

The Hon. SANDRA KANCK: Well, the Auditor-General will get this information. The letter continues:

> Your correspondence indicates that a Mr Osborne from PSI Consulting reviewed the shortlist evaluation process and that this was based on clinical evaluation of the performance of the tendered products. This would indicate to us that there is documentary evidence to support this argument that our client's products did not meet with user approval. We request that all relevant documentation that indicates that the Tuta syringe and needle products did not meet clinical evaluation be provided under the Freedom of Information Act.
>
> Our information is that no clinical evaluation of our client's products took place in any South Australian public health care units in 1997 or later. Additionally, no correspondence from the evaluation committee was provided outlining the shortcomings of our client's products or bid to inform them of their non-eligibility. The original Tuta bid was, on average, 20 per cent below the existing contract for syringes and needles at that time and would indicate that the commercial proposition would have been a serious contender for the consideration. For some reason that escapes us all, this was not the attitude that was taken by the people involved at the time.

The letter finishes with a request for an update on an incontinence products tender which had recommendations submitted to Supply SA in July 1998. The letter continues:

> On the final issue of the HHSA incontinence products contract, could you please provide me with a reliably informed contact within Human Services who can give me an update as to what is occurring as we have been unable to get any serious response from Human Services on this subject other than delaying tactics?

The questions I will be asking when I write to the Minister are: why were the Crown Solicitor and the independent auditor used in the investigation? How much did the investigation cost? Why, if no impropriety was found in the investigation, were the bids of the original respondents revalidated?

The Minister claimed in his speech on 10 March that urinary bags were part of a contract examined by the Hospital and Health Services Association (HHSA) and that no recommendation had been made to the board to that day. The letter I will write to the Minister will ask him to confirm that a written contract recommendation including urine bags was delivered to the Chairperson of the State Supply Board in July 1998 and to explain why there had been an eight month delay in implementing any recommendations contained in that report. I will expect the Minister to explain whether the delay in any way has been related to the fact that the Director of Supply SA tried to stop the writing of the foregoing report and told a meeting of public hospital supply managers held at the South Australian Health Commission on 6 May that he had cancelled this contract.

The Minister also indicated that evaluations are continuing into the use of sutures within our hospitals. This is most peculiar because a committee made up of health professionals, including surgeons from South Australian hospitals, forwarded a supply contract recommendation for sutures to the Department of Human Services, Supply SA and the Chairperson of the State Supply Board in September 1998. If I am correct, why then are evaluations continuing six months later, and what has happened to the recommendations provided by the HHSA at the request of the South Australian Health Commission?

The Minister also quotes as $2 million the HHSA's estimation of the continence market in South Australia. The Minister needs to be clear on whether this figure relates to the estimated expenditure of public health units or to the total continence market in South Australia. When he spoke on 10 March, the Minister went on to describe my claim of a saving of $540 000 on a spend of $2 million as defying belief, because this level of saving would translate to a reduction of 27 per cent. The Minister would be even more astounded if

he was aware that the continence contract recommendations provided by HHSA to Supply SA in July 1998 provided price reductions up to 35 per cent when compared to current Supply SA prices still paid by our hospitals. It is fairly—

The Hon. T.G. Cameron interjecting:

The Hon. SANDRA KANCK: It would have been very helpful for a lot of organisations.

The Hon. A.J. Redford interjecting:

The Hon. SANDRA KANCK: If I was a consultant, Mr Redford, I would be giving a lot better advice than some who are giving it to this Government. It is fairly clear that whoever provided information for the Minister's speech on 10 March was selective in what they provided. Since I spoke in December, HHSA has had to close its doors on its procurement services. In 1997, a review was undertaken on the HHSA purchasing agency by a consultant employed by the South Australian Health Commission. The resulting Munzberg report said:

> . . . processes are worthwhile and fundamental to securing significant cost savings both to units and to 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.

To date, the agency has made savings of $1.5 million for our health services. The purchasing agency was a response to and in line with the Government's policy of outsourcing and devolution. In two years, HHSA completed in full two large contract recommendations delivered to the Supply Board. HHSA was also near completion of a third major contract before it was notified by the Department of Human Services that it would have no further role in Government contracting in line with the Government's reform strategy. The purchasing agency also completed two capital equipment contracts: one for angiography and the other for anaesthetic equipment. In the same time, Supply SA has signed off one contract, the sharps container contract, which has previously been mentioned.

The HHSA purchasing agency had a unique evaluation process where the end users, that is, the clinicians, had a responsibility in the recommendation of products which was based on need rather than that of want. The end result was recommendations which were accountable to clinicians as well as purchasing staff. For too short a time the State's public health providers had the benefit of an impartial purchasing agency which proved effective and delivered cost savings.

Comments from Stephen Fogarty, General Manager of Terumo, raise concerns about the state of procurement practice in South Australia. He says:

> From my experience there is no official notification of the results of tenders, contracts, partnerships, deals or whatever they are now called in South Australia. The system should be transparent to all concerned. Mr Lawson talks about the need to make savings; this is a noble objective indeed but perhaps difficult to achieve with the significant bureaucratic infrastructure seemingly involved in health care procurement in South Australia.

Such comments show the contempt felt by industry and business about dealing with parts of the South Australian Government and its bureaucracy. Delays, lack of communication and lack of documentation of process within the State's procurement system are the main cause of concern within this industry. An open and transparent system cannot be achieved given these current problems. As an industry spokesperson said, 'If things are not open and communication is ineffective, people cannot help but be suspicious.'

With regard to the matter of open and transparent processes and the current suspicion in the industry, I have received a copy of an invitation for expression of interest in controlling the distribution centre of Supply SA. I think this means that the Government is looking for a private manager. Page 15 deals with the contact person with whom the respondent communicates. It reads:

> Clause 1. The only person within the Government authorised to communicate with respondents is the contact person. Therefore, respondents may not rely on communications with any other persons. Furthermore, if a respondent or its employee or agent communicates or attempts to communicate about the contractor selection process or Supply SA operations with any person within Government other than the contact person, the Government reserves the right not to accept any expression of interest or other proposal from the respondent from any further involvement in the contractor selection process.

Section 10, 'Confidentiality', reads:

> Any information relating to this EOI call, including information supplied by or on behalf of the Government is confidential to the Government and the respondent is obliged to maintain its confidentiality. The Government requires that no such information will be published in any form or provided to any arm of the media by any recipient of this document.

I wonder why there is such secrecy. Why should a respondent be punished for speaking to anyone other than the contact person in the Government?

The Hon. R.D. Lawson: Do you want to encourage backroom deals?

The Hon. SANDRA KANCK: This is exactly the reason I am raising this matter. It certainly seems to be part of the emerging culture of Supply SA to be secret, but why does the Government have to keep on doing things in secret? In November 1993, the then Opposition Leader in his official campaign launch speech proclaimed:

> A Liberal Government will be committed to open and honest government, fully answerable to Parliament and the people.

He went on to say:

> A Liberal Government will ensure that Parliament is strengthened in holding Executive Government to account.

Well, here is an opportunity for the Minister for Disability Services to take up the cudgels for openness, honesty and accountability on behalf of the Minister for Human Services, who just happens to be that same Dean Brown.

In summary, since my motion was moved in December, an interdepartmental investigation about the evaluation process has been undertaken by Supply SA. The investigation involved—

An honourable member interjecting:

The Hon. SANDRA KANCK: No, he has already told us. The investigation involved Crown Law as well as a consulting firm based in Canberra which was flown to Adelaide at taxpayers' expense to investigate the matter. Suppliers and manufacturers are now prepared to meet with the Minister to discuss their concerns, provided that he can guarantee their confidentiality.

There remains the evidence that on five products alone—underpads, sutures, medical filters, compression stockings, continence pads and urinary bags—savings of up to $2 million per year could be made. I can provide the Minister with my research on these products. HHSA has been notified that its purchasing agency will no longer have a place in the Government's procurement practices, despite its successes and support from the industry. I still strongly recommend

intervention by the appropriate Minister into Supply SA's procurement practices, particularly in the supply of medical supplies. Taxpayers' money has been used to implement reform that has not benefited our public health system or the medical supply industry.

Everything I said in my speech in December still stands, including my accusations about tenderers being asked to resubmit tenders with a 'what's in it for us' additional cost. This whole thing smells. The changing of approaches because of the personal preferences or perhaps empire building tendencies of particular CEOs is no way to run a tender process. This Government has used the watch cry 'certainty' so often, yet it seems to be prepared to ignore what is happening with the lack of certainty in Supply SA. The Minister does not appear to be aware of the impact that this chopping and changing of policy is having on this State's reputation and, more particularly, the backyard cricket way of making the rules on the run.

A number of interstate companies have indicated to me their distaste with doing business with the South Australian Government because of examples such as the way Group 65 tenders are dealt with. In closing, I quote words attributed to Petronius Arbiter in 65AD, because they seem so pertinent to what has been happening in Supply SA:

> We trained hard, but it seemed that every time we were beginning to form up in teams we reorganised. I was to learn later in life that we tend to meet any new situation by reorganising, and a wonderful method it can be for creating the illusion of progress whilst creating confusion, inefficiency and demoralisation.

I commend the motion to the Chamber.

Amendments carried.

The Council divided on the motion as amended:

AYES (10)

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

NOES (8)

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

PAIR

Roberts, T. G.	Davis, L. H.

Majority of 2 for the Ayes.

Motion as amended thus carried.

MOTOR ACCIDENT COMMISSION

Adjourned debate on motion of Hon. Nick Xenophon:

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

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

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

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

(d) any other related matter;

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

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

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

(Continued from 25 November. Page 318.)

The Hon. R.I. LUCAS (Treasurer): I have just been informed that this motion is unlikely to succeed, given that the Government intends to oppose it and, I understand—although I will not put words in their mouth—that members of the Opposition might be opposing it as well. On that basis, I do not intend to unduly delay the proceedings of the Council this evening. I just want to make a couple of quick points. When this motion was originally moved late last year, there was some criticism of the Motor Accident Commission and, as the Minister responsible for the Motor Accident Commission, the board and the staff, I want to defend the board and the staff of the Motor Accident Commission against the criticisms that were made. The mover of the motion, the Hon. Mr Xenophon, said:

> It seems that the Motor Accident Commission has been hijacked by bean counters where the important social and public policy role of compulsory third party insurance has been marginalised.

The Hon. Mr Elliott, in his contribution, said:

> I was even more horrified to find that the Motor Accident Commission saw it—

and he was referring to road safety—

> as being irrelevant to its considerations.

I will first respond to the criticism from the Hon. Mr Elliott. I believe it is unfortunate that the Motor Accident Commission board and staff have been attacked in that way. As I said, as the Minister I want to respond on their behalf: they do not yet have the opportunity. I suppose that, if the Standing Order is moved in terms of citizens having a right of reply in the Parliament, they may at some stage, individually or collectively, have an opportunity to respond to the criticisms made by the Hon. Mr Elliott in this Chamber about them and also the Hon. Mr Xenophon. In relation to the Hon. Mr Elliott's criticism, I believe that it is unfair to make that accusation about the staff and the board of the Motor Accident Commission. The Chair of the Motor Accident Commission, Mr Roger Sexton—

The Hon. M.J. Elliott: I didn't mention the staff.

The Hon. R.I. LUCAS: The Motor Accident Commission is the board and the staff: that is what it is. There is nothing else. The Motor Accident Commission comprises the board, and all the work is done by the Chief Executive, Mr Geoff Vogt, and a small number of other staff who work for the Motor Accident Commission. It is a very small staff. They, of course, have people who manage their investments and they work with insurance companies and others, but the Motor Accident Commission itself is comprised of a very small group of people. It is the board and it is the staff—and it is a very small number of staff. Mr Roger Sexton is in the chair, and there is a hardworking small group of board members who have worked diligently on behalf of the community of South Australia to turn around what was a very poorly performing SGIC investment portfolio. I will not waste time tonight listing all the silly investments that were in that portfolio, but that board, that Chair and those hard working directors have worked very hard to try to correct

some of the errors of the past and to turn it into a proper functioning Motor Accident Commission, undertaking the role it needs to undertake.

The Chief Executive Officer, Mr Geoff Vogt, is an extraordinarily hardworking Chief Executive Officer. He is also a member of a road safety advisory or consultative group (I do not have the exact title with me) and is personally most concerned about road safety issues. It is true to say that he asks some difficult questions on occasions about the effectiveness of various road safety programs, not from a viewpoint of not proceeding with them but from a viewpoint of trying to make sure that the most effective road safety programs can be implemented. He is not responsible for road safety programs in the State: that is a broader governmental responsibility. But he is an active participant within that. As the Minister for Transport indicated during the last debate, the Motor Accident Commission has, in recent times, undertaken funding for training programs for taxi drivers in the interests of road safety, as well as its own premium costs.

The Hon. Diana Laidlaw: It sponsored the New Year's Eve free services.

The Hon. R.I. LUCAS: It has, I think, almost a $2 million road safety sponsorship program including Night Moves and the TransAdelaide programs—a range of programs. I understand that recently it sponsored, or is about to sponsor, a road safety exhibit at the Birdwood Museum. The Motor Accident Commission assists in a number of road safety initiatives. It is not its major cause in life, that is true: it is running a Motor Accident Commission and it must ensure that it is a viable Motor Accident Commission. It is an insurance company. But the criticism levelled at it by the Hon. Mr Elliott that he was horrified to find that the Motor Accident Commission saw road safety as being irrelevant to its considerations is a most unfair and inaccurate accusation to direct at the board, the directors and the staff of the Motor Accident Commission.

As I said, on behalf of the Motor Accident Commission board, directors and staff, I want to reject the accusation. I do not intend tonight to go into any more detail than that. I just wanted to defend the Motor Accident Commission from that accusation. As I said, when the Standing Order comes in in relation to a citizen's right of reply, it may be that individuals who have been maligned in this particular way might seek the opportunity to defend themselves from the particular criticism that has been directed at them.

My comments, by and large, are addressed also at the criticism directed at the Motor Accident Commission by the Hon. Mr Xenophon when he said that it had been hijacked by bean counters. I can only assume that that is a criticism directed at the board and directors of the Motor Accident Commission. In relation to the honourable member's criticism that the important social and public policy role of the commission has been marginalised, again, on behalf of the board and the staff, I reject that criticism. Whatever the merits or otherwise there might have been in this motion, it did not require that the two members attack the board, the directors and the staff of the Motor Accident Commission in the way that they did.

The Hon. P. HOLLOWAY: I will be brief. I confirm that the Opposition will not support the select committee. Essentially, the issues raised in the motion moved by the Hon. Nick Xenophon emerged from last year's debate on the Motor Accident Commission. That was certainly one of the more interesting debates in which I have been involved in this Chamber, and those of us who were involved in the conference that debated each of the measures at length would, I think, agree that it was a most interesting debate.

The Hon. A.J. Redford: It was a very interesting conference, too. We are not allowed to talk about it but it was interesting.

The Hon. P. HOLLOWAY: Yes, it was indeed. As a result of that conference, we did strike a balance between trying to keep the cost of third party insurance affordable while at the same time providing a fair level of benefits to the victims of road accidents. Many of the matters raised by the Hon. Nick Xenophon emerged from issues that arose during that debate. Essentially, the Opposition's position in opposing the establishment of a select committee is based on the fact that we understand that the Motor Accident Commission has had a number of changes and restructuring recently and, of course, the legislation itself involves some quite substantial changes to its policies. We believe that it should be given some chance to settle down and get on with its job.

Nevertheless, we do believe that most of the issues raised by the Hon. Nick Xenophon in his motion could be covered by the Statutory Authorities Review Standing Committee. The Opposition believes that there may be some benefit if, in the course of its activities, the Statutory Authorities Review Committee—which, of course, has the power to look at all statutory authorities if it so wishes—investigates the Motor Accident Commission. Given the large number of select committees which we now have and the demands on the time of members of this Parliament in relation to those select committees, that may well be a preferable way to go in relation to these issues.

With those brief comments, I indicate that the Opposition does not support the establishment of a separate select committee to look at the issues. However, it certainly believes that many of the matters raised by the Hon. Nick Xenophon could be investigated through the regular standing committees of this Parliament.

The Hon. NICK XENOPHON: I thank members for their contribution. I reiterate that the basis of this motion was the ongoing concern and disquiet as to the level of compensation paid and the role of the Motor Accident Commission. That is not to belittle the MAC or criticise its role as such, but last year we were faced with legislation that many saw as draconian in terms of a significant erosion of benefits payable to victims of motor vehicle accidents. The purpose of this motion was simply to have a good hard look at a number of broad functions of the MAC, the role of compensation payable to victims, and to look at the future responsibilities and current responsibilities of the Motor Accident Commission into other issues of road safety.

I am aware, as the Treasurer has pointed out, that the Minister for Transport has been actively involved in a number of these issues. This motion was about an integrated approach to this issue because I have a very serious concern, as do a number of members, that unless we look at the big picture we could continue to see a steady erosion of rights and the very basis of the third party scheme being undermined. It appears that there may not be sufficient support for this motion but it is one that will not go away. I hope that members will consider a similar motion again, if this is not successful today, because I see this as being the only practicable way of dealing with a number of fundamental policy issues and looking at a long-term legislative solution to the problems that the MAC faces.

The Council divided on the motion:

AYES (5)

Cameron, T. G.	Elliott, M. J.
Gilfillan, I.	Kanck, S. M.
Xenophon, N. (teller)	

NOES (14)

Dawkins, J. S. L.	Griffin, K. T.
Holloway, P.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I. (teller)
Pickles, C. A.	Redford, A. J.
Roberts, R. R.	Roberts, T. G.
Schaefer, C. V.	Stefani, J. F.
Weatherill, G.	Zollo, C.

Majority of 9 for the Noes.

Motion thus negatived.

CONSTITUTION (PROMOTION OF GOVERNMENT BILLS) AMENDMENT BILL

In Committee.

Clause 1.

The Hon. R.I. LUCAS: When last we discussed this matter—as I understand it way back on 27 August 1998—I raised a series of questions with the mover of the Bill, seeking responses to them. *Hansard* records that at 2.23 a.m., on the morning of the twenty-eighth I presume it was, the mover, the Hon. Mr Xenophon, indicated that he took on board some of the remarks that I made, some of which he was gracious enough to say might have some merit but others appeared to be entirely factious. I was not quite sure what that meant but, nevertheless, it did not sound too good. He said:

> Given that it is 2.23 a.m., I do not propose to unnecessarily restate my position.

The honourable member then went on to say:

> . . . I propose to deal with the matters raised by the Treasurer in Committee in due course. I seek an undertaking from the Treasurer to enter into constructive discussions with me over the next few weeks.

Hansard records me as saying, generously:

> As always.

The Hon. Nick Xenophon said:

> I note that the Treasurer said that 'as always' he will enter constructive discussions with me in relation to the Bill and I will hold him to that over the next few weeks. I commend the Bill.

The Bill was then read a second time. I can say that the Hon. Mr Xenophon has not approached me, contrary to the undertaking he gave (he actually sought the undertaking from me), to enter into constructive discussion over the period.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: This was before we went down the legal route. I can tell the Hon. Mr Cameron that this was back in August of last year. I am sure the Hon. Mr Xenophon would want to be true to his word and may well want to take the opportunity to indicate how he intends to proceed, bearing in mind that he has given the commitment to enter into constructive discussions with the Government in relation to the issues I raised in the second reading stage of this debate. At this stage, in order to give the honourable member an opportunity to proceed, I will not go through the details. I will leave it at that to see whether the honourable member is prepared to abide by the undertaking he gave in relation to this matter and, as I indicated then, as always I will be happy to enter into constructive discussions with him in the interests of progressing parliamentary consideration of this Bill.

The Hon. NICK XENOPHON: Let us put this undertaking in perspective. It was an undertaking that the Treasurer gave to enter into discussions with me. I do not want to be pedantic about that. The Treasurer said I sought an undertaking that we enter into constructive discussions. The Treasurer generously said, 'As always.' Now it appears that events have overtaken us. I am not assigning any blame in relation to that. It is unfortunate and regrettable that we have not but, if the Treasurer is saying that I have given an undertaking, I suggest that he reread *Hansard*, even though it was at 2.23 a.m.

The Hon. R.I. Lucas: Are you saying that's not an undertaking?

The Hon. NICK XENOPHON: Let us put this in perspective. If I have to read it out again I will. What occurred is that (and I quote directly from the transcript) I said:

> I seek an undertaking from the Treasurer to enter into constructive discussions with me over the next few weeks.

I understood that the Treasurer would get back to me in relation to that. I am not blaming him for that; we did not have a further discussion. I have reread the Treasurer's contribution to the debate and I am happy to deal with it in Committee. If the Treasurer is indicating that the Government is now prepared to reconsider its opposition to the Bill on the basis of a number of amendments it may be proposing, I should have thought the onus was on the Government to propose amendments in relation to this. If there has been a genuine misunderstanding, then so be it, but if the Treasurer is saying that I gave an undertaking I suggest that he reread *Hansard*.

The Hon. R.I. LUCAS: I am disappointed that the honourable member will not abide by the undertaking that is clearly recorded in *Hansard*. This is the honourable member's Bill. I made a contribution in the second reading debate when I highlighted a number of problems with the legislation. The honourable member indicated in his response that a number of the points I had made had merit.

The Hon. T.G. Roberts: Far too generous!

The Hon. R.I. LUCAS: He may well have been far too generous, but that is nevertheless what he indicated. The honourable member is in charge of the legislation. When the Government has a Bill and the Opposition raises some questions in relation to a particular provision which might have some merit, and if the Minister gives an undertaking to enter into some discussions, the person in charge of the Bill has a discussion with the person who has the problems and tries to sort it through. The responsibility rests with the person who is in charge of the Bill.

An honourable member interjecting:

The Hon. R.I. LUCAS: That is fine: if the honourable member made a commitment that he is not prepared to abide by, I am happy now to go through the provisions in Committee and ask a series of questions of him as to exactly what his Bill means and to seek some explanation from the honourable member as to provisions in the Bill and how we will resolve the dilemmas that I highlighted in the second reading.

I was endeavouring to expedite the consideration of the Bill by not doing it in the Committee stages. Let me acknowledge the approach of the Hon. Mr Elliott in relation to the Trans-Tasman Mutual Recognition (South Australia) Bill where he highlighted a number of issues in the second reading so that the Government, as the mover of the Bill, could have a prepared response produced to expedite the consideration of the legislation. If we ever get to that Bill in

the remaining hours of this parliamentary session, I will be able to read those responses onto the parliamentary record. That is a common way of cooperatively working together in relation to legislation. That is what I endeavoured to do in the second reading of this Bill.

As I said, there is not much point going backwards and forwards over whether or not the undertaking will be abided by. A number of significant issues must be considered in relation to what the honourable member means. If this provision is to be passed (and I understand that the Labor Party has indicated, at least in this Chamber, its willingness to support it), it will be a provision which will apply to the Labor Party should it ever be elected to government.

The first example I want to raise is the annual Appropriation Bill. As I have indicated in the second reading, for quite some time both Labor and Liberal Governments have publicised the components of the Appropriation Bill at the time of the budget. It is way before the Appropriation Bill actually passes the Parliament. As members know, the Bill at this stage is now introduced in late May; there is an extended Estimates Committee consideration through the month of June; and the Bill does not pass the Legislative Council until some time in late July or early August, whenever that particular session happens to conclude.

Under both Labor and Liberal Governments, a variety of mechanisms have been used by Governments. They have produced printed materials, a budget type leaflet or a business related budget leaflet, which summarises the key points of the budget, and that is distributed either directly by Ministers or via members and other processes to small business people, members of the business community and anyone else who might be interested in the business aspects of the budget.

In more recent times, a summary document has been produced and distributed widely throughout the State. In more recent times, one-off press advertisements have been produced highlighting features of the budget in metropolitan daily papers and, occasionally, in regional newspapers and Messenger Press as well. I think in the past two years, in the interests of the regional communities of South Australia, which sometimes take a view that their interests are being ignored by the Parliament and by Governments, a printed leaflet has been produced which highlights the aspects of the budget which are of interest to rural and regional communities. All those features are put together in a budget leaflet and that material is circulated through rural and regional communities in South Australia to highlight important aspects of the budget which relate to rural and regional communities.

Occasionally, under both Labor and Liberal Governments, I understand, Premiers have made short statements, perhaps of two or three minutes duration, through paid television time. It is not paid commercials, but an address to the State; I guess that is the nature of it. I think Don Dunstan might have been the first to adopt the technique, but certainly Governments in recent times have also adopted it. Certainly, this Government has adopted that technique.

An honourable member interjecting:

The Hon. R.I. LUCAS: Exactly. This Bill, if passed, will prevent any Government from being able to publicise the features and component parts of the budget prior to late July or early August, whenever the Appropriation Bill has passed through the Parliament. So, instead of the information being circulated at the end of May, under this legislation, if it is to be supported, no Government, Labor or Liberal, would be able to produce materials publicising the Budget or the Appropriation Bill during that period. That was one of the issues I raised. I seek information from the Hon. Mr Xenophon as to why he intends to prevent Governments from being able to circulate information about budgets before the Appropriation Bill is passed.

The Hon. NICK XENOPHON: I will go first to the issue of commitment. Rather than circuitous discussion with the Treasurer, through the Chair, on this issue, I can only restate what was said in terms of my understanding of the undertaking in relation to this matter. With respect to the matter that the Treasurer has raised—and maybe there has been a genuine misunderstanding between us on this—I note that the Treasurer indicated previously that he understood that I would 'consider amendments to the legislation and that I would be happy to engage in what he [the Treasurer] hoped would be a fruitful and productive discussion between now and October.'

If I misunderstood the Treasurer, I assumed that if the Government wanted to improve or amend this legislation it would have an amendment on file. I acknowledge that there is a potential problem with respect to Appropriation Bills. That is not the intent of the Bill. The Treasurer's comments have a considerable degree of merit. It was not the intent to prevent Governments from publicising Appropriation Bills in the manner the Treasurer has raised. That matter has merit and, if the Government has an amendment to that effect or will seek it in another place, it would have significant merit. That was not the intention of the Bill. The second reading explanation makes that clear, and I thank the Treasurer for drawing the matter to the attention of the Council.

The Hon. R.I. LUCAS: I will raise a number of other issues, but maybe the honourable member may report progress to enable him to consider the issues. The Government does not support the legislation. We are highlighting what we see as some of the absurdities in the legislation. We are surprised that a Party that wants to be a Government would be supporting the legislation. That is a judgment call for the Labor Party to take. There are a number of areas where the legislation is fatally flawed, in our judgment. The honourable member has now conceded—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: My coalition partner—who is that?

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Labor has indicated its support for the legislation. The honourable member has indicated that there are problems with this legislation. It would be in his own best interests and the interests of the Labor Party to have a closer look at this. I can only suspect that it was a knee-jerk response to curry favour with the honourable member in relation to this legislation. I would have thought that, if some of the hard heads within the Labor Party, who believe that at some stage they might be in Government, had a serious look at what they have been conned into supporting by their spokesperson on this issue, they would be horrified at the prospect.

There is a good public policy point, nevertheless, that Governments should not be prevented or, as this provision would say, they would have to go to both Houses of Parliament and have the nature and extent of the advertising campaign approved by resolution of both Houses. Let us move away from the Appropriation Bill where the honourable member acknowledges there is a significant problem with the legislation and talk about any other Bill.

I ask the honourable member to think of something like the Alice Springs to Darwin railway legislation, a major piece

of legislation. Perhaps that is not a good example, because as we understand it there is bipartisan support for that legislation. But let us assume there was a Bill like that where there was opposition between the two Parties: the Government had a view and the Opposition had another view. On a major infrastructure project such as that which is some years away there will be occasions—certainly the Northern Territory Government has already done it—where Governments may wish to expend public moneys in terms of the public policy that underlies the need for the railway in terms of seeking community support for a major infrastructure project or program.

On a Bill such as that which might be opposed by one side and supported by the other, how does the honourable member see in practice the provision about the nature and extent of the advertising campaign having to be approved? Is the honourable member saying that the television commercials or the speech that might be given by a Premier in a paged message to the State would have to be approved by resolution of both Houses before it is given?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Government Bill or its underlying policy. Have a look at the words.

The Hon. P. Holloway: But there is no Bill.

The Hon. R.I. LUCAS: No, there would be. You could have legislation which is mooted in the Parliament, or its underlying policy—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, a Bill or its underlying policy. But you could have a Bill in relation to the Alice Springs to Darwin railway, or any number of major infrastructure projects. For example, there might be something in relation to the Riverbank precinct. We might need some major legislation if the Government of the day wanted to do an ASER, as a Labor Government did, or if a Liberal Government is considering a Riverbank precinct. One might be looking long term at a master plan and wish to develop some community understanding of what it is about. At the moment, we are spending public moneys producing printed materials, etc.—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, I am not talking about ETSA; I am talking about the Riverbank precinct. We are trying to highlight the master plan and the commonsense of the underlying policy of what might have to be some legislation in relation to this precinct. What does the honourable member mean when he says that Parliament would have to vote on a resolution on the nature and extent? Certainly, the honourable member is a lawyer and has cleverly drafted this legislation in terms of this. It is important for we non lawyers to look beyond this and at the detail of what the Hon. Mr Xenophon is trying to tie up in relation to this provision. Clearly, nature and extent can be read to mean the detail of whatever it is that is to be done.

I cannot see the Labor Party voting for a resolution which allows the Liberal Government to spend $200 000 on a paid television advertising campaign promoting the virtues of the Alice Springs to Darwin railway, the Riverbank precinct or selling ETSA. I presume that the nature and extent of the campaign would have to be outlined in some detail. One can argue whether it is considerable detail or a good amount of detail; it would have to be outlined in some detail. What was the honourable member driving at when he used these words 'nature and extent' in relation to the advertising campaign? Does the honourable member want to see approved the actual commercials, the content, the arguments which will be developed in each of the advertising campaigns and the advertising brief? It is important for members to know what the honourable member is getting at.

The Hon. NICK XENOPHON: Again, I thank the Treasurer for raising these issues. First, in terms of the drafting, it was prepared by Parliamentary Counsel. I do not pretend to have the drafting skills of Parliamentary Counsel. In relation to the concept of nature and extent, I suggest that the Treasurer look at the underlying principle behind this Bill and the reference in the second reading explanation to the important principles behind the doctrine of the separation of powers. Essentially, it is not fully prescriptive but seeks further and better details of the type of campaign being proposed. I can understand the Treasurer's concerns, but it is not supposed to be prescriptive. Essentially, it is there to say that there ought to be some detail, particularly in relation to the monetary expenditure and the type of campaign proposed.

Giving the instance of the Adelaide to Darwin railway is not to the point, in that that is something that has had bipartisan support. It is something that would not fall foul of this Bill. As I have indicated previously, the Treasurer has raised some important issues with respect to Appropriation Bills: I take them on board. I have had a brief discussion in the course of the Committee stage with my colleague the Hon. Paul Holloway and I understand that the Opposition may well be considering some amendments to this Bill. In the circumstances, I ask that progress be reported.

Progress reported; Committee to sit again.

AUDITOR-GENERAL'S REPORT

Adjourned debate on motion of Hon. R.I. Lucas:

That the Auditor-General's Report be noted.

(Continued from 4 November. Page 131.)

Motion carried.

GAMING MACHINES (FREEZE ON GAMING MACHINES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 March. Page 897.)

The Hon. T.G. ROBERTS: I indicate very early in my contribution that I will not be supporting this measure. A temporary freeze would not achieve anything other than perhaps putting an increased value on—

The Hon. T.G. Cameron: Does that mean you would support a permanent freeze?

The Hon. T.G. ROBERTS: No. It would put an added value on those machines already in existence. I understand—

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: It depends what it leads to. I understand the intentions of the mover to buy time to get some of the details, the data, to talk to some of the people in the industry and to get the social welfare people to give assessments on some of the details of what is actually happening in the community. My assessment is that some of the real problems that exist with gambling addicts that are connected to the use of poker machines are problems that the Government needs to look at in relation to some of the funding that is available to correct some of the social

inequities that the machines have brought about, in relation to the sharing of the gambling dollar.

Poker machines have certainly impacted on regional communities and businesses. They have impacted on some clubs—and, by the way, some clubs have not made applications for poker machines—and they have changed the gambling habits of individuals within communities. Certainly, a lot of players, who perhaps did not gamble previously, now attend hotels and clubs. Some would say that that is not a bad thing. I mean, there are healthy entertainment aspects associated with poker machines that are not being highlighted enough by the Hon. Nick Xenophon in his campaign. There may be some case for highlighting some of the aspects associated with poker machines, such as the minority of people who become addicted to the machines and the ways in which the machines are advertised and promoted, but that should be the responsibility of the industry to self regulate with some disciplines.

The industry knows that, if it does step out of line in relation to the way in which it promotes itself in the community, enough people in the community are looking to discipline the industry, and therefore I think it will try to operate within the bounds of reason. I am one of those people who do not believe that the hotel and club industry should be penalised for offering cheap meals to people. Although it is one way of promoting interest for people to attend the venues, it does not force them to play the machines. I am also aware, having a connection—and I must declare an interest in that my brother has an interest in a number of hotels in the metropolitan area and in the country (and when I say 'a number' I mean two in the city and perhaps one or two in the country)—

The Hon. A.J. Redford: I bet he does not share any of the profits.

The Hon. T.G. ROBERTS: No, he does not share any of the profits with me. I get the odd slab dropped at the door at Christmas time, that is about all. I have had anecdotal stories related to me and from visiting the hotels from time to time I have observed that there are people who sit at the machines constantly, and certainly publicans can tell you stories of individuals who are hopelessly addicted to the machines. I do not think we should penalise the whole industry for the problems associated with poker machine addiction of the few. I think it is up to the Government, the hotel industry and perhaps the Hon. Mr Xenophon to work out ways in which those victims can be assisted or rehabilitated from their addiction.

All forms of gambling involve people who take them to excess. There are punters who gamble on horses, dogs and trotters to excess and who become addicted. There are other forms of gambling via the Casino and the Casino ends up having to ban people from the premises on the basis that they cannot control their addiction either. The Casino still stands; the gallopers still gallop; the dogs still run; and so do the trotters. I think people who cannot help themselves with poker machines should be identified and assisted. Perhaps some hotels and the industry itself can help to work with voluntary organisations and Gamblers Anonymous to identify people and to assist and support them to work their way through their problems.

I think that the industry has been probably a little too tolerant in relation to some of the imposts that have been put on people in relation to how they run their premises. But they have cooperated all the way, with all the legislative protections that have been imposed on them and I suspect that, if there were to be a temporary freeze that led to a permanent freeze, there would not be any change to people's gambling habits or to the way in which people operated socially. The number of machines that are already in the community would allow for those people who do find gambling an addiction and a problem to find their way into premises that already have the machines, anyway. I cannot see that there would be any benefit in providing that measure.

I am sure that the honourable member will look at other ways of trying to bring in some controls, but I think that the way in which we should be looking at poker machines is to look at the revenue raised, the tax collected and what impact that is having on clubs and hotels in relation to the moneys that they may otherwise donate to, for example, junior sport and to look at some of the ways in which governments are spending the tax revenue raised from the poker machines. More of that money could be distributed back into communities where there are difficulties in relation to promotion of healthy lifestyles and sport for juniors.

I know the Government says at the moment that it is cash strapped and cannot afford to go throwing money around in large or small lumps but, if we are serious, with respect to the increased revenue that is continually being raised by governments, some of the social problems that emanate out of excessive use or abuse of all forms of gambling in this State should be turned back into a social justice program. The taxation revenue could be used for people in those regions and areas who, for all sorts of reasons, have been deprived of social and sporting benefits that the community could, either through local government or through local sporting groups and organisations, use to benefit young people in those communities.

The Hon. R.D. LAWSON (Minister for Disability Services): A number of very cogent arguments have been addressed against this proposal during the course of debates. It is pointed out that the gaming machine industry in this State has contributed significantly to employment and economic activity and that this motion, if carried, would inhibit the growth of that employment and economic activity. It has been said that a freeze on the number of poker machines will enhance the value of the existing licences and that the freeze will further enrich those who are already very well heeled as a result of the gaming machine industry. It has been said that this motion, if passed, will inhibit or deprive people of opportunities to have access to gaming machines in some areas where they are not as prevalent as they are in some other places.

It has been said that the freeze will be ineffective because large operators will acquire other businesses; they will acquire machines within the market; and that it is a proposal which will encourage monopolistic behaviour. The civil libertarian argument has been advanced. There is the view that people should be able to use poker machines if they wish; if they are adult persons they should not be in any way limited in the exercise of their freedom. It has been said that people will gamble on other forms of gambling of which there are, of course, many: horse and dog racing, lotteries, keno, football, soccer, the Casino, etc. It is said that this will be a futile measure because if we freeze or limit the accessibility of poker machines many other forms of gambling are available to the community.

It has been said that a freeze will potentially reduce the revenue to the State from gaming machines. It has been said that the horse has already bolted and that it is futile to stop the

rot now because 12 000 gaming machine licences have already been issued and that this freeze might prevent the grant of another 1 000 machines, or so. The proposal has been criticised as tokenism.

Others have criticised the proposal as having a retrospective element. It is said that the commercial interests of people and companies who invested large amounts of money might be adversely affected if, at this juncture, the South Australian legislature should limit the number of gaming machines. These are cogent reasons all, but I must say that the Social Development Committee in its gambling inquiry report tabled in 1998 did recommend, after hearing evidence, that a ceiling of 11 000 gaming machines be imposed with the cap to be reviewed biennially with the long-term aim of reducing the number of gaming machines to fewer than 10 000. That was one of the recommendations of the gambling inquiry report of the Social Development Committee.

It is worth saying that that was a committee which reported unanimously on this proposal. It comprised quite a large number of members of both Houses of both this and the last Parliament. It was initially chaired by the Hon. Bernice Pfitzner, a member of this Chamber, and subsequently by the Hon. Caroline Schaefer as Presiding Member from December 1997. The Hon. Terry Cameron and the Hon. Sandra Kanck were members, in addition to a number of members of the House of Assembly: the Hon. Dr Bob Such, Mr Michael Atkinson, Mr Stewart Leggett until October of 1997, and the member for Hartley, Mr Scalzi. The report was unanimous in this particular regard in the proposal to limit the number of machines.

In another recommendation it was said that an independent economic impact study on gambling be conducted to clarify and inform anecdotal evidence relating to the effects that gambling in general and gaming machines in particular are having on the retail industry and small business. The report made recommendations which, as I say, was a unanimous report. The purpose of the ceiling was with a view, ultimately, to reduce the number of machines but also for the purposes of imposing a pause whilst the evidence and research was gathered.

I am not one of those who attributes all of the woes of small business to poker machines in this State, nor am I inclined to overstate the undoubted difficulties faced by problem gamblers, but I think there is no doubt that gaming machines in this State have had a social impact—and a not insignificant social impact—and they have had economic impacts. Those propositions I do not think can be gainsaid. This is a matter of conscience and, in the absence of this measure, it seems to me that the number of gaming machines in the State will increase. Obviously, they will not increase at the same rate as they have from the time of their introduction in July 1994, when the gaming machines legislation came into operation. Licences for 7 000 machines were issued in the first six months. There are now about 12 000 licences and over 500 venues in clubs and hotels, to say nothing of the Casino in Adelaide. There is no doubt that, if this measure is not passed, the number of machines in the community will continue to increase.

The question which I in conscience must ask myself and which I believe other members should ask themselves is this: are the interests of the South Australian community as a whole best served by increasing the number of machines at this time? It seems to me that, if it is not in the best interests of the State to increase the number of machines, one ought in conscience support this measure.

I have read the speeches and contributions of members. One member said that this was a matter in which the heart led in one way and the head in another. I do not wish to get into an anatomical debate, but it is not a matter of the heart or the head: it is a matter of the conscience. It is not a matter of emotion against intellect. It is a matter of whether the continued expansion of the gaming machine regime in this State is in the best interests of the State.

I believe that we ought to pause. We ought to do so to enable us to better understand the effects, both social and economic, of gaming machines to decide what is to happen in the future. If we do not pause now, it will make it harder, if not impossible, to take any action in relation to gaming machines in the future. I support the measure.

The Hon. NICK XENOPHON: I thank members for their contribution. Given the hour of the night and that two weeks ago I spent well over an hour discussing the impact of gaming machines in the community, and in particular made reference in my contribution to the report of the Social Development Committee, I do not propose unnecessarily to restate what was contained in that report, unless, of course, the Treasurer wants me to. However, I do not think much would be gained by that. It is on the record.

The report of the Social Development Committee and the submissions made to that committee, particularly by welfare agencies, pointed to the fact that there ought to be a freeze or cap on the number of gaming machines in this State. I thoroughly endorse the considered approach by the Hon. Robert Lawson on this matter and congratulate him on his contribution.

The fact is that recommendation 1.3 of the report of the Social Development Committee, chaired by the Hon. Caroline Schaefer, was that a ceiling of 11 000 gaming machines be imposed, with a cap to be reviewed biannually, with a long-term aim of reducing the number of gaming machines in South Australia to fewer than 10 000.

The current position as at 23 March 1999 is that the number of venues operating live machines is 532. The number of machines actually operating is 11 636. The number of machines approved is 12 631. So, some 995 machines have been approved but not installed.

The Hon. T.G. Cameron: Why does that figure keep going up?

The Hon. NICK XENOPHON: Because a number of venues have chosen to gain approval but have decided not to install the machines at this time, and that has been the subject of questions in this Council to the Treasurer, and he has made inquiries with the Liquor and Gaming Commissioner.

The Hon. T.G. Cameron: How long are they allowed to keep a licence?

The Hon. NICK XENOPHON: That is an issue that is in the Gambling Industry Regulation Bill: that there ought to be a time limit, and the Liquor and Gaming Commissioner is, I understand, exercising his discretion and looking at these issues.

In relation to this Bill, I am disappointed that the Hon. Caroline Schaefer, as I understand it, does not support it. She had some concerns about retrospectivity. I understand that my colleague the Hon. Terry Cameron moved an amendment to obviate that concern and also that my colleagues the Democrats (the Hon. Mike Elliott, the Sandra Kanck and the Hon. Ian Gilfillan) have all indicated their support for at least a temporary freeze—a pause so that we can know in which

direction we are going on this whole question of gaming machines.

The Hon. Carolyn Schaefer has not supported the Bill in its previous form but, given that there are amendments on file, I urge her most sincerely to consider supporting this Bill, given the recommendation of her committee—a recommendation on which she signed off. Again, I urge her to reconsider her opposition to this Bill, given that her concerns appear to have been met with respect to any purported retrospectivity.

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: As I understand it, I still have the floor, and we would all like to resolve this debate.

The Hon. A.J. Redford interjecting:

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

The Hon. NICK XENOPHON: If the Hon. Mr Redford wants to persist with his trite interjections, I do not see that that will play any useful role in this debate. As I have said before, some members have the gift of the gab, but the Hon. Mr Redford has the gift of the gaff. In relation to this—

The Hon. A.J. Redford: I asked you a straightforward question, so why don't you answer it? And then I said I was sorry that—

The ACTING PRESIDENT: Order!

The Hon. NICK XENOPHON: I did not hear the Hon. Angus Redford's question in the first place. I try to—

Members interjecting:

The ACTING PRESIDENT: Order! The Hon. Nick Xenophon has the call.

The Hon. NICK XENOPHON: I would like to conclude my remarks in relation to this matter so that we can bring it to a vote. If the Hon. Angus Redford has some concerns, I am more than happy to discuss them with him. This Bill is consistent with the recommendations of the Social Development Committee. This is about a product that has caused and continues to cause damage in the community to a certain proportion of its players. Gaming machines should be viewed as a product that continues to inflict a considerable degree of social and economic impact on the community, and the purpose of this Bill is simply to say 'Enough!', that we ought to pause, that there ought to be a freeze on the number of gaming machine licences, for reasons that not only I but also other honourable members who have supported this Bill have set out, but also for the very cogent reasons set out in the report of the Social Development Committee.

The Council divided on the second reading:

AYES (7)

Cameron, T. G.	Elliott, M. J.
Gilfillan, I.	Lawson, R. D.
Roberts, R. R.	Xenophon, N. (teller)
Zollo, C.	

NOES (13

Crothers, T.	Dawkins, J. S. L.
Griffin, K. T.	Holloway, P.
Kanck, S. M.	Laidlaw, D. V.
Lucas, R. I. (teller)	Pickles, C. A.
Redford, A. J.	Roberts, T. G.
Schaefer, C. V.	Stefani, J. F.
Weatherill, G.	

Majority of 6 for the Noes.

Second reading thus negatived.

CRIMINAL LAW CONSOLIDATION (JURIES) AMENDMENT BILL

The House of Assembly agreed to the Bill without amendment.

STATUTES AMENDMENT (RESTRAINING ORDERS) BILL

The House of Assembly agreed to the Bill without amendment.

CRIMINAL LAW CONSOLIDATION (INTOXICATION) AMENDMENT BILL

The House of Assembly agreed to the Bill without amendment.

ROAD TRAFFIC (MISCELLANEOUS No. 2) AMENDMENT BILL

The House of Assembly agreed to the Bill without amendment.

YEAR 2000 INFORMATION DISCLOSURE BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

The purpose of the introduction of this new legislation is to encourage the voluntary disclosure and exchange of information about Year 2000 date problems, remediation efforts and readiness as outlined in the attached Bill.

This legislation will provide limited protection from civil liability for any Year 2000 disclosure statements.

The Bill is intended to encourage 'Good Samaritan' activity allowing for information to be passed from one organisation to another, in particular large businesses to smaller businesses and Government organisations.

Any information/advice companies/organisations may have in relation to the Year 2000 problem and which is released could be of mutual benefit.

The Year 2000 problem presents a number of challenges and if auditing, testing and where necessary rectification action is not taken, it has the potential to cause malfunctions not only in computer based operations but also in some of the embedded chips in equipment and machinery used by Governments, businesses and the community. The Year 2000 problem, also known as the 'Millennium Bug', poses a major risk management problem for those groups.

This problem has arisen because many of the world's existing software and hardware uses 6-digit storage formats for dates (rather than eight) and does not recognise the implied century component of the date. In order to save storage space and data entry time, many computer programs were designed to use two digit year notation, so 1972 was recorded as 72, 1997 was recorded as 97 and so on. When the date changes from '99' to '00' in the year 2000, many computers may calculate the new year to be 1900 rather than 2000 and software applications may not work or they may provide inaccurate information.

The solution to the Year 2000 date problem is for organisations and Governments to not only understand the readiness of their own internal systems, but to also examine inherent supply chain issues which all organisations and Governments face. It is also therefore imperative that knowledge regarding the level of compliance of products and services is shared.

The purpose of this Bill is to encourage the open and frank disclosure of Year 2000 preparedness by giving limited protection from civil liability, statements made in good faith to other organisations. The legislation does not aim to protect anyone from making

false and misleading statements in relation to these matters. The Bill will become a mechanism to encourage information exchanges so crucial to achieving Year 2000 readiness and will do this by offering limited protection from civil liability for any Year 2000 disclosure statements.

It would obviously have been preferable to have introduced this legislation to this Parliament earlier, however the legislation which the Government has prepared substantially mirrors the Commonwealth Information Disclosure Legislation which was only passed by both Houses of Parliament on 18 February 1999. However, it is certainly not too late to make use of the provisions of the proposed legislation as it is far more advantageous to promote disclosure and discussion and communication within the State about the Year 2000 date problem and its effects and implications at this late stage, rather than neglect to do so at all. In addition, a major benefit of the existence of such disclosure legislation is that it will assist Government and organisations with their contingency planning processes, which are currently in their most crucial stages. The only substantive differences between this legislation and the Commonwealth Act is that this measure will provide clearer protection to consumers of goods and services, and protect statutory warranties.

The proposed Information Disclosure Legislation would not set a precedent. It is unique, effectively has a sunset clause and has the sole aim of assisting all South Australians by facilitating an appropriate environment for the sharing of information which is vital to preparation and contingency planning for the Year 2000 date problem for all South Australians.

Explanation of Clauses

Clause 1: Short title

This clause is formal. The short title of the legislation will be the same as the short title of the Commonwealth Act.

Clause 2: Commencement

The measure will be brought into operation by proclamation. It is proposed to include the option to bring the legislation into operation retrospectively so as to coincide with the date on which the Commonwealth Act came into operation. This would allow the scheme to be established by the Commonwealth and State legislation to apply uniformly from the commencement of the Commonwealth Act.

Clause 3: Interpretation

This clause sets out the definitions to be used for the purposes of the Bill. Words and expressions used in the Commonwealth Act and this measure have the same meanings in this measure as they have in the Commonwealth Act, except to the extent that the intention, context or subject matter otherwise appears, indicates or requires.

Clause 4: Crown to be bound

The measure will bind the Crown in right of the State and also, so far as the legislative power of the State extends, in all its other capacities.

Clause 5: Year 2000 disclosure statements

Clause 5 provides that a Year 2000 disclosure statement will include both original and republished Year 2000 disclosure statements.

Clause 6: Original Year 2000 disclosure statements

Clause 6 provides that a Year 2000 disclosure statement is a statement that—

- relates solely to any or all of the following:
  - Year 2000 processing;
  - the detection of problems relating to Year 2000 processing;
  - the prevention of problems relating to Year 2000 processing;
  - the remediation of problems relating to Year 2000 processing;
  - the consequences or implications for the supply of goods or services of problems relating to Year 2000 processing;
  - contingency planning, risk management, remediation efforts or other arrangements for dealing with the aforementioned consequences or implications;
  - the consequences or implications, for the activities or capabilities of a person, of problems relating to Year 2000 processing;
  - contingency planning, risk management, remediation efforts or other arrangements for dealing with the aforementioned consequences or implications for the capabilities of a person;
    - includes words to the effect that the statement is a Year 2000 disclosure statement for the purposes of the Act or a corresponding law;
    - includes words to the effect that a person may be protected by the Act or a corresponding law from liability for the statement in certain circumstances;
    - is made after the commencement of the clause and before 1 July 2001 (it is recognised that remediation of non-business critical systems may continue through the 2000/2001 financial year);
    - identifies the person who authorised the statement; and
    - the statement is either made in writing, in a data storage device (such as a computer disk) which is capable of being reproduced in writing from that device (with or without the aid of any other article or device), or the statement is made by way of an electronic communication of writing.

For the avoidance of doubt, subclause (2) provides that the subparagraphs of subclause (1)*(a)* do not limit each other.

While these words are not compulsory, subclause (3) deems the following sentences to comply with the form requirements in subclause (1)*(b)* and *(c)* relating to the legal status of the statement:

> "This statement is a Year 2000 disclosure statement for the purposes of the *Year 2000 Information Disclosure Act 1999*. A person may be protected by that Act from liability for this statement in certain circumstances."

Clause 7: Republished Year 2000 disclosure statements

Clause 7 provides that a republished Year 2000 disclosure statement is a statement that—

- consists of the republication, transmission, reproduction, recital or reading aloud of the whole of an original Year 2000 disclosure statement;
- is made after the commencement of the clause and before 1 July 2001 (it is recognised that remediation of non-business critical systems may continue through the 2000-2001 financial year); and
- the statement is either made orally, in writing, in a data storage device (such as a computer disk) which is capable of being reproduced in writing from that device (with or without the aid of any other article or device), or the statement is made by means by way of an electronic communication of writing or an electronic communication of speech.

Clause 8: Protection from civil actions

Clause 8 sets out general liability protection with respect to Year 2000 disclosure statements, subject to the exceptions in clause 9.

Subclause (1) protects a person from civil liability arising out of the making of a Year 2000 disclosure statement. The Bill removes civil liability which might otherwise exist under several causes of action including negligent misstatement, defamation and trade practices and fair trading legislation.

Subclause (2) provides that a Year 2000 disclosure statement will not be admissible against a person who made it. Under this provision, for example, a Year 2000 disclosure statement which discloses that goods or services supplied by the maker of the statement are not Year 2000 compliant will not be admissible in a civil action against the maker of the statement as evidence that a failure of the goods or services was actually caused by Year 2000 related difficulties. This would not prevent evidence of the matters contained in the Year 2000 disclosure statement being adduced through other sources.

Clause 9: Exceptions

Clause 9 provides exceptions to the protection from civil liability provided in clause 8.

False and misleading statements

A Year 2000 disclosure statement which is materially false and misleading will not be protected where the person seeking to rely on clause 8 knew that the statement was materially false or misleading, or was reckless as to whether the statement was materially false or misleading. This exception operates in conjunction with the explanatory statement requirement contained in clause 10.

A Year 2000 disclosure statement will be made recklessly where the consequences of the person making the statement are not so substantially certain that he or she must be taken to have intended them but the person is so indifferent to the likely consequences that he or she must be taken to have foreseen them (see *The Laws of Australia*, The Law Book Company Limited, Vol. 33, Torts, 33.8[8], 1998).

Pre-contractual statements

A Year 2000 disclosure statement made to another person will not be protected in a civil action where the statement was made in connection with the formation of a contract (including as a warranty) and the other person concerned, or a representative of the other person (such as an executor, liquidator, receiver or administrator), is party to the civil action which relates to that contract. A Year 2000 statement made as part of pre-contractual negotiations whether by person who subsequently becomes a party to the contract or by some other party such as a manufacturer, for example, will not be protected in a civil action relating to the subsequent contract.

Statements made in fulfilment of an obligation

A Year 2000 disclosure statement will not protected where the statement was made in fulfilment of an obligation under a contract or a law of the Commonwealth, State or a Territory. A statement will not be protected, for example, where the terms of an existing contract require reports or notices to be provided to the party and the statement is provided for that purpose.

Statements made to induce consumers to acquire goods or services

A Year 2000 disclosure statement will not be protected in a civil action where the statement has been made to induce consumers or a particular consumer to acquire goods or services, and the consumer concerned, or a representative of the consumer concerned (such as an executor, liquidator, receiver or administrator), is party to the civil action which relates to the goods or services acquired by the consumer.

Restraining injunction or declaratory relief

Liability protection will not be given to a Year 2000 disclosure statement in a civil action to the extent that it consists of proceedings for a restraining injunction or for declaratory relief. A person may, for example, obtain an injunction to prevent the further publication of a defamatory Year 2000 disclosure statement.

Proceedings instituted in the performance of a regulatory function or power

Liability protection will not be given to a Year 2000 disclosure statement in a civil action to the extent that it consists of proceedings by a person or body under a law of the Commonwealth, a State or a Territory in the performance of a regulatory or enforcement function or the exercise of a regulatory or enforcement power.

Intellectual property rights

Liability protection will not be given to a Year 2000 disclosure statement in relation to a civil action solely based on the infringement of a copyright, a trade mark, a design or a patent. A person will be liable in an action which is based on a Year 2000 disclosure statement containing material which breaches an intellectual property right of another person.

Clause 10: False or misleading statement exception—explanatory statement to be given

In order to gain the protection of the clause 8 liability protection, a person who made the Year 2000 disclosure statement must, in the course of a civil action, provide the other party with an explanatory statement which sets out the belief that the Year 2000 disclosure statement was *bona fide* and not reckless.

This explanatory statement may be used by the other person in deciding how (or whether) to proceed, but will not be admissible as evidence in any civil action except for determining whether subclause (1) has been complied with.

The person instituting the civil action will be able to waive compliance with subclause (1).

Clause 11: False or misleading statement exception—imputed knowledge

Clause 11 sets out how the knowledge requirements contained in clause 9(1)*(a)* may be imputed in relation to corporations and persons other than corporations.

Clause 12: Presumption against amendment of contracts

Clause 12 provides that a Year 2000 disclosure statement is taken not to amend, alter or vary a contract unless either the parties to the contract have expressly agreed to the amendment, alteration or variation in written form or the contract expressly provides for the amendment, alteration or variation by way of making the Year 2000 disclosure statement. Parties cannot affect the operation of statutory conditions or warranties.

Clause 13: Exemption from section 45 of the Competition Code

Section 45 of the *Competition Code* prohibits certain anti-competitive contracts, arrangements or understandings. Some commentators have suggested that the exchange of information about Year 2000 computer problems and remediation efforts might give rise to liability under section 45. Clause 13 permits contracts, arrangements or understandings made or arrive at, or proposed to be made or arrived at, which might otherwise breach section 45 of the *Competition Code*, to the extent to which the contract, arrangement or understanding provides for the disclosure and/or exchange of information, by any of the parties to the contract, arrangement or understanding, for the sole purpose of facilitation any or all of a number of specified Year 2000 issues.

Clause 14: Regulations

This is a standard regulation-making provision.

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

ADJOURNMENT

At 12.11 a.m. the Council adjourned until Thursday 25 March at 11 a.m.