LEGISLATIVE COUNCIL

Wednesday 5 April 2000

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 thirteenth report of the committee 1999-2000.

SMITH AND WESSON INC.

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of Smith and Wesson Inc.

Leave granted.

The Hon. K.T. GRIFFIN: Yesterday in my ministerial statement on the National Rifle Association an interjection was made regarding the accuracy of a small part of that statement, namely, that Smith and Wesson Inc. were to cease manufacturing hand guns due to litigation. Following the interjection I made some inquiries. I have discovered that Smith and Wesson has been involved in litigation and has recently announced a settlement agreement with a number of federal, state and municipal authorities in the United States. The company is being sued in a bid to hold firearm manufacturers responsible for the gun violence in America. The agreement does not cover all litigation facing the company.

The agreement is intended to allow Smith and Wesson to continue in hand gun manufacturing but comes with a significant number of restrictions, reflecting many of the proposed restrictions of the Clinton administration. Smith and Wesson has agreed to certain conduct and will have dealers who want to sell Smith and Wesson products agree to a list of restrictions on sales. The agreement prohibits consumers from purchasing more than one hand gun in a 14 day period, would require the passing of a safety test, sets accuracy standards for guns (which limits some self-defence guns) and prohibits dealers allowing people under 18 from entering a gun shop without an adult.

Dealers who sell Smith and Wesson would not be allowed to sell certain semiautomatics or magazines and other firearms that do not meet the standards set in the agreement. The dealers are not to be allowed to sell guns at gun shows where any private sales are conducted. They are required to provide safety information and carry $US1 million liability insurance. Smith and Wesson (and any other manufacturer that subsequently signs the agreement) agreed to not market guns to appeal to young shooters, commit 1 per cent of revenues to education campaigns, and support legislative efforts to develop 'smart gun' technology which would 'ballistically fingerprint' each gun, which is intended to eventually lead to a national system of firearms registration. Other design standards have been set. Smith and Wesson, under the threat of litigation, signed the agreement so that it can continue to manufacture handguns, but the design, manufacture, advertising, sale and distribution of those guns has been restricted.

NATIONAL SORRY DAY

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement on the National Sorry Day issued this day by the Hon. Dorothy Kotz, Minister for Aboriginal Affairs.

Leave granted.

QUESTION TIME

MEMBER'S REMARKS

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Attorney-General a question about allegations against the Liberal government.

Leave granted.

The Hon. CAROLYN PICKLES: In last Friday's *Age*, the Premier's former parliamentary secretary, the Hon. Julian Stefani, for the first time publicly threatened to quit the Liberal Party, saying he no longer had respect for those running the government. Later on radio it was revealed that the Hon. Mr Stefani, in his interview with the *Age*, had pointed to what he claimed was a 'stench of corruption' within government. The journalist who interviewed the Hon. Mr Stefani quoted the honourable member as saying:

> They [the government] think they smell like roses; I think they smell like a sewer.

Given the serious nature of the concerns of Mr Stefani, my questions are:

1. Has the Attorney approached the honourable member about his concerns aired publicly last week and spoken to him about the reasons he believes there may be a stench of corruption within government?

2. Has the Attorney-General informed the honourable member of his duty and obligations to refer any evidence of corruption that he may have to the police and/or the Auditor-General?

3. Is the Attorney-General aware or has he been informed of the nature or content of information and documents given by the Hon. Mr Stefani to the Auditor-General concerning the government's handling of the Hindmarsh Soccer Stadium construction contracts and consultancies?

The Hon. K.T. GRIFFIN (Attorney-General): It is an interesting try by the honourable member. I suppose the same question has been asked in the House of Assembly. You cannot blame them for wanting to try. I suppose there are many things that the Labor Party and the Leader of the Opposition in another place raise from time to time—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: —that might equally be the subject of questions about issues within the Labor Party. My understanding is that the honourable member was, in fact, misquoted. Any discussions I have or have not had with any of my colleagues are not matters that I am prepared to disclose to the Leader of the Opposition in this place.

Members interjecting:

The Hon. K.T. GRIFFIN: The honourable member knows—as every honourable member knows—that, if she wants to make any allegations that might suggest impropriety, I would certainly be prepared to receive them, but more likely she should take them to the anti-corruption branch. I do not want to debate and do not believe it is appropriate to be debating what may or may not have been the subject of conversation between me and anybody else.

ATCO

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question about the ATCO proposal.

Leave granted.

The Hon. P. HOLLOWAY: On 28 March, I asked questions of the Treasurer relating to comments and claims made by the company ATCO and its head Mr Clive Armour. Mr Armour said that, in July last year, ATCO had approached the government with an offer to augment the existing interconnect with Victoria. He said this would be done without the use of taxpayers' money. On 25 February, Mr Armour gave an interview in which he was asked:

> So, no government money would have to come out of the proposal? The government would not have to put any money into it?

Mr Armour replied that that was basically the proposal. Mr Armour also said that an option existed for the government to take 50 per cent equity in investment but that this was not a requirement of the proposal. In reply to my question, the Treasurer stated that the government would have been prepared to offer in kind or fee-for-service help but was not prepared to assist ATCO because it was requesting monetary assistance from the taxpayer. He said:

> I will check with ElectraNet because I understand that that is not true in relation to the claims that Mr Holloway is now making in this chamber, that we were not prepared to assist either through fee-for-service or in kind support as long as we did not have to put taxpayers' money in.

Yesterday in a media interview the chief of ElectraNet, Mr Tothill, said that he could not recall that ATCO had ever requested monetary or taxpayer funded assistance. He was twice asked whether ATCO had requested taxpayer financial support. On the second occasion he was asked:

> But your recollection is that they didn't ask for any taxpayer funds.

Mr Tothill responded:

> I can't recall them asking for taxpayer funds.

So in view of that my questions are:

1. Has the Treasurer had discussions with ElectraNet about this issue as he promised he would on 28 March?

2. Does the Treasurer still maintain that ATCO requested taxpayer funded assistance other than fee-for-service or in kind support?

3. How much taxpayer funded support does the Treasurer maintain ATCO requested and to whom and when did ATCO make these requests?

4. Did the Treasurer or his electricity reform and sale unit issue any written or oral instruction to ElectraNet not to support the ATCO proposal, and will the Treasurer inform the Council of any such instructions?

5. Will he, as I asked him last week, release all documents relating to the ATCO proposal?

The Hon. R.I. LUCAS (Treasurer): I am happy to table a copy of the board minute. It is not normally my practice but, given the outrageous claims the Hon. Mr Holloway and others have been making, I am happy to table a copy of an October 1999 ElectraNet board minute. It is duly authenticated and signed off as a true and correct record of the ElectraNet board meeting, as I understand it—not that I was there—from October 1999. Whilst I am happy to table it, let me read it for the edification of honourable members. The section to which I refer states:

> ATCO are offering ElectraNet SA the option of up to 50 per cent equity in a possible joint venture company.

I know I am only the Treasurer and I am not the shadow minister for finance but, when they say 'equity', it sounds like money to me. I am not sure what sort of equity the shadow minister—

The Hon. P. Holloway interjecting:

The PRESIDENT: Order, the Hon. Paul Holloway! You have asked your question; just listen to the answer.

The Hon. R.I. LUCAS: I am not sure what kind of economics degree the shadow minister for finance has but, when someone says to me 'equity in a possible joint venture', what do you think 'equity' means?

The Hon. L.H. Davis: Do you think it means fairy floss?

The Hon. R.I. LUCAS: The shadow minister obviously thinks, as my colleague says, that it does not mean money and that it means fairy floss or it means a variety of things other than money. The honourable member, rather than making up these stories, as he is, rather than trying to concoct a version of events, rather than being prepared to accept a duly authenticated minute, which has been on the public record now for a month to six weeks (when I first heard it on ABC radio when ABC radio was pursuing this issue)—he is not prepared to accept an official ElectraNet board minute but he continues to seek, together with others, to concoct some fanciful story—

An honourable member interjecting:

The Hon. R.I. LUCAS: This was presented by the management of ElectraNet to the board, I presume. It states:

> ATCO are offering ElectraNet SA the option of up to 50 per cent equity in a possible joint venture. . .

An honourable member interjecting:

The Hon. R.I. LUCAS: 'Equity' sounds like money to me. I am not sure what it sounds like to the Hon. Mr Holloway.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It is money. My colleague the Hon. Mr Davis might talk about some options but the Bannon government, in terms of options on Collins Street—

The Hon. L.H. Davis: Do you want to hear about the SGIC option? It was $10 million cash and it only cost us—

The Hon. R.I. LUCAS: Yes, that was only an option. It was not going to cost money. That is the sort of thinking we get from the shadow minister for finance and the shadow Treasurer: options do not cost money. Have a look at SGIC and other deals that you got yourselves into in relation to options.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No. I am tabling this. It is being tabled. Snap! That is the end of the argument. That is what it says. Are you disputing that?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Are you disputing that?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, you would recognise a donkey card.

The Hon. P. Holloway: That's quite irrelevant to the question I asked.

The Hon. R.I. LUCAS: That is quite irrelevant. It actually says that what they are offering is an option of up to 50 per cent equity in a joint venture company to do this augmentation of the interconnector. I indicated publicly (and, I think, in response to an earlier question)—as I understood the discussion, after the government made it quite clear, as

it had in relation to Riverlink, that it was not prepared to put 50 per cent equity into Riverlink or anything else—that the whole reason the government changed its position in relation to the electricity businesses was that it was not going to continue to put taxpayers' money into electricity businesses. They then came back with a proposition—which I am happy to concede was evidently further discussed with ElectraNet—along the lines that I understand Mr Armour has been briefing the media, the opposition and potentially others, that is, that in some way they would pay the up-front costs but later the new owners and operators of ElectraNet would have the option of joining the joint venture company.

They might well have discussed other options, but I am saying that one of the options that was discussed in the earlier stages was equity in a possible joint venture company from the government through ElectraNet. The government said 'No.' There was no formal request or letter to the government about it, but there were discussions regarding it. Discussions also went on in relation to however they want to describe that option—option B or the alternative option—where ATCO and the partners—I am not sure whether it had partners—the private sector, would pay the money up-front and leave the options for later in terms of whether or not a new operator of ElectraNet might want to join in those particular arrangements.

So, I have already acknowledged publicly and in this Council that there were discussions. There was a variety of options—I do not know whether there were any letters or notes of meetings—including the option that Mr Armour is now talking about. I am saying that I was given a copy of a minute and before that I was advised that there were discussions about our becoming a partner in a joint equity company. A number of those discussions were verbal. I said that the government's position was quite clear: 'We are getting out of this business: we are not putting in half the money or a quarter of the money or whatever else for a business proposal such as this.'

The Hon. P. Holloway: Did you issue instructions to—

The Hon. R.I. LUCAS: I did not have to issue instructions. I just made it clear that we were not going to do it. We had just got out of the business of being involved in electricity. Why would we then start putting money into another joint venture?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Why would we?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, he might not be able to recall. It is up to him what he can recall. I am referring to an actual minute: I am not relying on memory. I am saying, 'Here is a minute—a fact.' I am not saying that there were not other options. If the honourable member is trying to suggest that I have never acknowledged that there were other options, that is not true, because I have said publicly—and, I think, also in this Council—that they might well have been moved to another option. I am actually tabling a minute. I am not relying on memory—there it is. So, if the honourable member wants to talk about what 'equity' means, that is a sad reminder of the shadow minister for finance's understanding of equity positions in relation to joint venture companies.

I think there is another argument. I do not have the documentation with me but I am happy to pursue it. One of the arguments of, I think, the Hon. Mr Holloway but certainly Mr Foley and others, in roundly condemning the government in relation to the Pelican Point power station, was that we had said that this was being built by the taxpayers. I think the Hon. Mr Holloway, but certainly Mr Foley and others, have attacked the government because ElectraNet was having to connect Pelican Point to the system.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Okay. So, the Hon. Mr Holloway acknowledges that he was part of that criticism. I am getting the detail on this, so I will reserve my final position. I understand that, under the alternative proposal from ATCO, that is, where it pays it up front, it would pay the cost of the wire and whatever else it is, but it may well be that ElectraNet would have to pay the cost of connection in exactly the same way that the opposition roundly condemned the government in relation to Pelican Point.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, that's exactly right. If that is ElectraNet, it will be an interesting argument for the Hon. Mr Holloway and Mr Foley, given that they attacked the government because, so they said, the taxpayers will have to put money in through ElectraNet in relation to connection. So, it will be very interesting to hear their argument if ElectraNet has to pay, even under the ATCO alternative proposal, the costs of connection to the system. Under the opposition's definition—not the government's definition—that will be a cost to the taxpayer and to the government, whereas the opposition has been trying to say that there is no taxpayer funding in the ATCO proposal. I will check that.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Now you are trying to talk about something else; you no longer want to talk about this. I will check the ATCO proposal because if there are ElectraNet costs to connect at both ends—

The Hon. P. Holloway: Let us all check it.

The Hon. R.I. LUCAS: Well, I will check that—the argument that Mr Holloway is trying to run around with at the moment in terms of his own arguments in the past will be blown absolutely out of the water. I am happy to do that.

In relation to the other issue the honourable member reminded me of—and I am sure it is in the process of being produced at the moment—that is, an answer to his question in relation to fee-for-service arrangements, I said at the time that I would check the details. I understood there might have been some further discussion about ElectraNet performing fee-for-service arrangements because the honourable member suggested that that was not the case, that ElectraNet had indicated that it was not prepared to assist in any way at all.

I said that I would check because I understood that there might have been some fee-for-service arrangements. I do not recall ever having intended to say anything in relation to in kind support. That was a question the honourable member raised. Certainly the intention of my answer would have been in relation to fee-for-service, not in kind support, and I am still having that matter checked and I will obviously respond to the member as soon as I can.

The PRESIDENT: Is the Treasurer seeking leave to table that document?

The Hon. R.I. LUCAS: Yes, I am, Mr President.

Leave granted.

The Hon. T. CROTHERS: As a supplementary question, if one has equity in a joint venture, and that joint venture goes bankrupt, are both venture partners responsible for any liabilities that occur as a result of the bankruptcy?

The Hon. R.I. LUCAS: I know the honourable member is not a lawyer, but he is obviously a bush lawyer; he knows the answer to the question. The shadow minister for finance

does not understand the issue of liabilities, responsibilities and accountability. The Hon. Mr Crothers, if he has an opportunity, ought to take the shadow minister for finance aside and explain to him the niceties in relation to joint venture and equity arrangements and who has to accept the responsibilities. It is obviously clear that, in the end, it will depend on the nature of the joint agreements that are signed, but there is no doubt that, if you are going to take an equity position in a joint venture, you will be up for not only whatever you might make out of it but whatever you might lose out of it. Clearly, that is the sort of proposition the shadow minister for finance does not understand, and the shadow Treasurer equally does not understand. I am indebted to the honourable member for his question.

FOUR-WHEEL DRIVE VEHICLES

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport a question about four-wheel drive safety, driver education and the environment.

Leave granted.

The Hon. T.G. ROBERTS: Previously I addressed a question in the Council to the Minister for Environment, represented at the time by the Attorney-General, about the advertising standards of the motor industry which advertises four-wheel drives on television. In Australia we are having a number of safety problems with four-wheel drives. One is in relation to the lack of protection they provide in head-on, side-on collisions and the damage they cause when they run into smaller vehicles, etc., and the other one concerns the problems associated with visiting tourists who run into the Outback during unscheduled rainy periods and get into trouble by not knowing how to properly use four-wheel drives.

It appears to me that the advertising standards that were set some time ago certainly have not changed; in fact, they are getting worse. Most of the four-wheel drive advertising involves four-wheel drives driving at breakneck speeds through isolated areas, in some cases in environmentally sensitive areas, and in other cases in purely surrealist circumstances, for want of a better description of it, that do not mirror any of the circumstances in which four-wheel drivers would find themselves out in the real world. So I think there is a need for driver education perhaps to be stitched into the advertising industry standards to overcome some of the problems that we are facing, which driver education, through advertising, might help.

The Hon. A.J. Redford: It would be a long ad.

The Hon. T.G. ROBERTS: I think you could have a series of advertisements using the motor industry's brand names, showing—

The PRESIDENT: Order! The honourable member is giving an opinion, I think. It is out of order.

The Hon. T.G. ROBERTS: I was sidetracked by the interjection.

Members interjecting:

The Hon. T.G. ROBERTS: We had a supplementary dorothy dixer earlier; I was just answering the interjection. Certainly the environmental questions and the driver safety education could be put into advertising for the specific brand names of the cars, and I think that would do a lot of good for the community. Will the minister take up the issue of four-wheel driver education and environment protection with her federal colleagues and also with the advertising industry as a national safety and environmental issue?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will have to check some of the material that the honourable member outlined in his question about the safety standards of the vehicles, and I know that nationally these are checked from time to time in mock crashes and the rest. First, I would like the opportunity to check that material, and certainly if any steps are taken to have a separate road safety four-wheel drive campaign or have some warning or advice on the advertisements it would have to be undertaken on a national basis. I assume these ads are produced for national distribution by these companies. But certainly I will explore the issues and provide a reply to the honourable member.

I advise in the meantime that the Minister for Tourism recently released an Outback roads safety strategy, which is being provided through car rental companies and the like to people visiting this state from overseas, I think in a variety of languages, just warning them about the conditions on roads generally. I know that there are environmental issues when clubs in particular seem to go all over the sandhills, and a whole range of things. Certainly there is a range of safe driving courses arranged by a whole variety of clubs, encouraging responsible driving practice. I will get some more information for the honourable member on that matter also.

REGIONAL DEVELOPMENT COUNCIL

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about the Regional Development Council.

Leave granted.

The Hon. J.S.L. DAWKINS: Last Thursday evening and Friday the Regional Development Council held its second meeting at Clare. The council is made up of 20 members who come from a wide range of backgrounds and geographical areas and who represent a good cross-section of the rural and regional community of South Australia. Much of the meeting was devoted to examining the ongoing response of the government to the Regional Development Task Force report. In addition, the council also examined the draft regional development strategy that is being developed in conjunction with the Office of Regional Development.

The meeting was also attended by senior government officials from a range of departments, each of which has been working on the draft strategy and the task force response. These officials are all members of the Regional Development Issues Group, which I chair. This issues group and the Regional Development Council have been developed using the highly successful model employed by the Food for the Future Council and its respective issues group, chaired by my colleague the Hon. Caroline Schaefer. Can the minister inform this Council of his association with the Regional Development Council following his recent appointment to the industry and trade portfolio?

The Hon. R.I. LUCAS (Treasurer): As a new chum to the industry and trade portfolio—this was my first meeting with the Regional Development Council—I was mightily impressed by the general spirit that existed amongst all members at the meeting in the shared objective of revitalising regional South Australia. I must congratulate my ministerial colleague the Hon. Rob Kerin and also the Hon. Mr Dawkins and the Hon. Caroline Schaefer, who were also in attendance.

Clearly, much work has gone on in working with the Regional Development Council on important issues that regional areas have raised with the government and with departments, I suspect, over many years: these are not issues that have raised their head just in the past year or so as it has become of more interest to the media, I suppose, at a national level. I suspect that these are issues that have been raised for many years, and I am delighted that my ministerial colleague and my fellow colleagues from this chamber are working productively and cooperatively with this important Regional Development Council forum.

Without going through all the detail of the activities undertaken over the day and the evening, I will just refer briefly to the communique issued by the council at the end of the meeting. A number of concrete suggestions have emerged—processes for action and implementation rather than just discussion. The council has agreed that a series of briefings will be held in regional communities to report on the progress of the implementation of the recommendations of the Regional Development Task Force.

Mr President, you and other members will be aware of the important work that the task force undertook. There is a very clear intention from the council and from the government that that report not be left to gather dust on a shelf somewhere in a government department or agency. These forums, which I am told will start as soon as possible, will be coordinated through regional development boards and will be run by the Office of Regional Development.

The council will also endorse the Community Builders Program, which will be trialled in four clusters of towns in regional areas, to promote the revitalisation of those communities. This program is a community-based leadership program designed to both increase the number of available and active local leaders as well as stimulate greater economic development at regional level. The council also supported the National Regional Leadership Forum, to be held in regional South Australia in August this year. Finally, the council endorsed a series of regional forums to showcase successful examples of international, interstate and intrastate renewal programs.

More information is available for those members who are interested. I am sure that the Hon. Mr Dawkins' office or the Hon. Mr Kerin's office would be able to provide further information and further detail on the process for implementation of some of these decisions. I am sure all members would join with me in thanking the members of the Regional Development Council for the work that they have undertaken so far and the work that they are about to undertake over the coming year or so.

The Hon. T.G. Roberts: Why didn't you endorse the wind farm—

The Hon. R.I. LUCAS: I am not even aware that it was raised at the council meeting. The Hon. Mr Dawkins shakes his head, so the honourable member will need to get hold of his mates to lobby the appropriate regional delegate to raise the issue. If the Hon. Mr Roberts has failed to do that so far, he should have a word with the Hon. Mr Dawkins, who will provide the details of a process to lobby the appropriate delegate to raise the issue at an appropriate time. Obviously there will be a forum in relation to a number of these issues, as I have outlined, and it may well be that that will provide a vehicle to raise that issue.

MOBILE TELEPHONES

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Human Services, a question about the health implications of mobile telephones.

Leave granted.

The Hon. SANDRA KANCK: I refer to recent findings of the British Consumers Association regarding the use of hands-free kits for mobile telephones. The study found that the radiation dose to the head was tripled by the use of the kits, and it suggested that the earpiece bypassed the skull in terms of the radiation penetration and directed the radiation straight to the brain through the ear canal. I understand—

Members interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: —that new local research being conducted in Sydney supports these British findings. In fact, Bruce Armstrong of the New South Wales Cancer Council has said:

> Some studies have shown a correlation between brain cancers and mobile phones.

Given the possible health implications to many South Australians who use mobile phones, my questions to the minister are:

1. What current safeguards are in place to protect the health of South Australian mobile phone users?

2. Would the Department of Human Services be prepared to fund an independent study to assess the health risks associated with mobile phone use; if so, would such findings be made available to South Australian consumers?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I took particular interest in this story on page 2 of the *Advertiser* this morning because of the Australian road rules (introduced last year through this place), which banned the use of hand-held phones when a vehicle is being driven or is stationary at traffic lights. Since then, I have advocated that a driver can undertake a whole range of alternatives rather than using a hand-held phone. They include pulling over, parking, using a pager or a car mounted hands-free kit or a personal hands-free kit. The discretion is the driver's in that instance.

It is important that we also look at this issue in context. This morning over the internet I was able to gain a full copy of the press release issued by the United Kingdom organisation called 'Which?', so I did not rely just on the *Advertiser* article. It is important to note the following statements, because it is this organisation, 'Which?', which in turn issued the news release of 3 April 2000 in relation to these tests on the two hands-free sets. 'Which?' found that the sets act as aerials, channelling three times as much radiation from the phones into users' heads. That was in the *Advertiser* article. What the *Advertiser* article did not say and what the same release did stress is that there is no conclusive evidence that mobile phone radiation causes health problems, including cancer or gene damage, but neither has it been given the all clear.

They raised the issue, not in the context of saying that it does cause health problems, but I do not doubt that further research will be undertaken on this subject, internationally and nationally, and that the scarce resources of the Human Services Department need not be devoted to this purpose. Nevertheless, I will ask the Minister for Human Services

whether he shares my view on this matter. I suspect also that the companies themselves, in the light of this research, will be very keen to ensure that they are able to give the all-clear in terms of the products. Essentially, what they are talking about is the ear piece of the phones and the cords.

I must admit I find it very disconcerting when I see people using them. You never quite know whether half of Adelaide has gone mad because people are all taking to themselves—or whether they are talking to you, and you find they are not. Or perhaps we have security everywhere because people are all talking into security phones. I have been caught out many times by people using these new ear pieces.

I suspect, as the article in the *Advertiser* suggested today and as others have suggested since, that the best way to use these phones and to reduce any fear of radiation is to make sure that the phone calls are very brief. I suspect that, because they are timed calls, most parents would want to encourage that: the same would apply in business, too, but it does not seem to be the way that we tend to use these phones generally. I would use them little to reduce any potential fear of radiation and to keep the bills down—or hold them out from the ear and yell, as with the old wind up phones.

MANDATORY SENTENCING

The Hon. A.J. REDFORD: My question is directed to the Attorney-General. Having regard to the recent debate on the topic of mandatory sentencing in the Northern Territory and Western Australia and the competing views on whether or not the commonwealth parliament should seek to overturn those laws, can the Attorney-General advise the parliament:

1. What is the government's position on mandatory sentencing?

2. What is the government's view on whether or not the commonwealth parliament should seek to overturn the Western Australian and Northern Territory laws?

3. What is the Attorney-General's understanding of the state opposition's view on the issue of mandatory sentencing and commonwealth intervention?

The Hon. K.T. GRIFFIN (Attorney-General): There are various polls on this. There is the Northern Territory poll and there is one I saw in an interstate newspaper—I think it was the *Age*—that indicated that 52 per cent were opposed to mandatory sentencing; the Northern Territory survey showed the results coming out the other way. I have not made a study of the two surveys at this stage.

I have not hesitated to make my views quite clear on this: I do not support mandatory imprisonment—mandatory sentencing, as it is commonly called—but I have indicated that it is not for me to comment on what the Northern Territory and Western Australia might do through their legislatures. I appreciate that it is a real dilemma for many people. There is certainly a temptation at the commonwealth level for some to move through the commonwealth parliament to overturn both the Northern Territory and Western Australian laws on this issue. However, once you start at the federal level moving to overturn state or territory based laws, you are getting into a very difficult—

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: —and complex area. One has to ask: where will it stop? I have been very vocally opposed to the commonwealth extending its power base by relying on international conventions. This government looks at treaties with a great deal of interest and it also participates in the Treaties Council in a way which is designed, as far as possible, to avoid the commonwealth government's assuming more and more jurisdiction as a result of entering into treaties and relying on them.

I note that the federal Leader of the Opposition in relation to mandatory imprisonment—or mandatory sentencing; however we wish to describe it—has been calling for the federal parliament to overturn both the Western Australian and Northern Territory mandatory sentencing laws. I note also that Queensland, New South Wales, Victoria and Tasmania, which have Labor administrations, have a similar view, particularly because at the Standing Committee of Attorneys-General only a week or so ago, at one stage, their Attorneys-General all sought to get the standing committee to support a move against the Northern Territory and Western Australia and seek to put pressure on the commonwealth to move to override the mandatory sentencing laws in the territory and Western Australia.

So, at least we have the federal Labor leader and the Labor governments of Queensland, New South Wales, Victoria and Tasmania opposed to mandatory sentencing and wanting to have the commonwealth parliament take the step to override the laws in that territory and state. On the other hand, in Western Australia the Labor leader is saying to the feds: 'Keep out of it; stay away from it.' I am not prepared—

The Hon. T.G. Roberts: That's unusual for the west.

The Hon. K.T. GRIFFIN: Well, it's unusual for the Labor Party to be divided in this way. It is interesting—

An honourable member interjecting:

The Hon. K.T. GRIFFIN: No. The Liberal Party allows a diversity of thought on these sorts of difficult social and moral issues. That does not seem to prevail in the Labor Party. However, in South Australia—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: I am coming to South Australia now. The interesting thing about the Leader of the Opposition, Mr Rann, is that he has not made any statement at all about either mandatory sentencing or what the commonwealth parliament should be doing regarding the Northern Territory and Western Australia. I do not know why that is so. Perhaps the media have not sought his view. That is surprising. If they have not sought his view, one must ask why. Perhaps it is because they think his view is irrelevant. Maybe it is because they do not think that this person who holds himself out as an alternative Premier will ever get to that position. For one reason or another, the media have not put any weight on Mr Rann to say where he and the Labor Party in South Australia stand on this issue. Should mandatory sentencing be supported or should the commonwealth parliament be encouraged? While all his mates on the eastern seaboard have been taking a stand—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: —he has been hiding under a bush—or a bushel. I think that it is about time that the media and the public of South Australia asked the Labor Party where it stands on this issue. It is a—

The Hon. R.R. Roberts: What's your view?

The Hon. K.T. GRIFFIN: Well, I've told you what my view is. I've told you that my view is that I am opposed—

The Hon. R.R. Roberts: You're opposed to mandatory sentencing.

The Hon. K.T. GRIFFIN: I am opposed to mandatory sentencing. I do not support—

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: I acknowledge that there is some in our legislation in two instances. The other interesting thing is that the shadow Attorney-General, in the same interview to which the Hon. Mr Redford referred yesterday, tried to put the issue of mandatory sentencing to one side. One should remember that the Labor Party had this fairly slick and superficial approach at the last election: it did advocate mandatory minimum sentences for the third offence of burglary and housebreak, I think, but it seems now—

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order, the Hon. Mr Redford!

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order, the Hon. Mr Redford, for the second time!

The Hon. K.T. GRIFFIN: And he does, in the same interview, indicate, regarding the issue of putting the blame onto judges:

> What I worry about with mandatory sentencing is that in fact the criminal justice establishment will undermine it if it were brought in and the judges wouldn't cooperate with it, and neither would prosecutors and they would find some way around it as they have in other jurisdictions that have mandatory sentencing. So what attracts me with guideline sentencing is that it's done by judges for judges.

I do not quite understand what he is saying, but he does get to the point and makes a choice between guideline sentencing, grid sentencing or mandatory sentencing and says:

> For myself, I say the guideline sentencing. . .

So, it looks as though he has at least moved away from mandatory minimum penalties. Maybe he is speaking for the Labor Party: I do not know. It is about time the opposition stood up and was counted and identified on this issue. Do opposition members agree with the eastern seaboard Labor Premiers, Labor governments and Mr Beazley; do they agree with the Western Australian Leader of the Opposition; or do they just want to keep their head down?

NGAPARTJI MULTIMEDIA CENTRE

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Information Economy, a question about Ngapartji's free email service for South Australians.

Leave granted.

The Hon. CARMEL ZOLLO: I refer the minister to my previous question without notice of 27 August 1998, to which as yet I do not appear to have received a reply. The Ngapartji Multimedia Centre provided an internet email facility (hello.net.au) as a free service to South Australian residents. This venture was hailed at the time of its commencement in 1997 by Minister Armitage as 'helping the government in its goal to make South Australians the largest per capita users of online multimedia service in the world'.

The Hon. Carolyn Pickles: He doesn't answer his questions.

The Hon. CARMEL ZOLLO: Well, he obviously doesn't answer his questions. It is somewhat of a surprise, therefore, that I have been informed that the service, so critical to assisting the government in is objectives, has been off-line since 7 February 2000 because of what it terms 'abuse by persons unknown'. The loss of the service has affected 23 000 South Australian users who will now be forced to say goodbye to the free hello.net.au service. That is a blow to the acceptance of accessible information technology by South Australians. My questions to the Attorney, representing the minister, are:

1. When will the minister reply to my question of 27 August 1998?

2. What action will the minister undertake to provide continued free service to the users of hello.net.au?

3. Can the minister outline what abuse led to the withdrawal of the service?

4. If personal information data security was breached, what was the extent of the breach?

5. Exactly how many users have been affected?

The Hon. K.T. GRIFFIN (Attorney-General): I will refer the question to my colleague in another place and bring back a reply.

GENETICALLY MODIFIED FOOD

The Hon. T. CROTHERS: I seek leave to make a precied statement prior to directing to the Attorney-General, representing the Minister for Primary Industries and Resources and Regional Development, questions on genetically modified crops.

Leave granted.

The Hon. T. CROTHERS: An article in the *Advertiser* of Wednesday 29 March this year stated that Aventis and Monsanto Australia Ltd, two companies involved in growing genetically modified canola crops in South Australia, were planning expanded trials this year. The article stated that Aventis planned to grow 1 200 hectares of transgenic canola at up to 122 sites in all states except Queensland, and that Monsanto said that it had applied to grow 1 000 hectares of genetically modified canola crops in Australia this year. It would decide where to plant the crops once it received approval. My questions, in the light of that, to the minister are:

1. What government body is responsible for the granting of approval to companies such as the above mentioned for the growing of genetically modified crops?

2. What prerequisites, if any, must be met by companies prior to being granted approval?

3. What is the number of companies that have requested approval to grow genetically modified crops in South Australia?

4. Of those companies, what number have been denied approval?

5. What is the number of companies that are currently experimenting with genetically modified crops in South Australia?

6. How many sites across South Australia are presently being used for the production of genetically modified crops?

7. Do the seeds which Aventis or Monsanto, or both, are supplying contain the infamous Monsanto 'terminator' gene?

The Hon. K.T. GRIFFIN (Attorney-General): I will refer the question to my colleague in another place and bring back a reply.

INTERNET COMMERCE

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney a question about internet shopping and e-commerce.

Leave granted.

The Hon. IAN GILFILLAN: There has been a substantial growth in recent years in internet commerce. The

International Data Corporation estimates that the number of internet users in the Asia-Pacific region will almost quadruple, from 21 million in 1998 to more than 81 million by 2003. During the same time, e-commerce spending will surge from $2.7 billion to $72 billion. That is an industry apparently growing by over 2 600 per cent in five years. Electronic commerce can take many forms. It is not all new types of business. Many of the dollars spent on-line in future will be dollars that are presently spent in more traditional ways.

If we are to increase spending 2 600 per cent in on-line transactions over the next few years, then we will be spending much less money and less face-to-face time in transactions at banks, government agencies, and even in traditional retail shops. The debate is not about whether this will happen but only about the extent to which it will happen and what will be the consequences. There are two groups of people with concern here.

First, there are the issues of concern to consumers. There is a vibrant debate being conducted in the news group Aus.consumers about the level of postage and handling costs being charged when you buy an article on-line and get it delivered. Some contributors to the discussion feel that post and packing charges at any level are a ripoff. There are also many people who still feel that buying goods over the internet is risky. A recent study on e-commerce by 'Consumers International' found the following:

> Regulators and retailers have much work to do before the internet can offer a reliable environment in which consumers can shop with confidence.

Secondly, there is the effect of this massive new type of trade on existing retail stores, which is principally my focus. It will not be long before some stores close or go broke because fewer people will be shopping in them. Max Baldock, President of the Small Retailers Association, is of the view that some business are already suffering lower sales partly for this reason. However, some stores are well prepared and already trading on-line, in addition to their normal street shopfront presence. While browsing on the internet I found I could do business electronically and order goods to be home delivered from, for example, Just Jeans, Dymocks bookstore, Dick Smith Electronics and the Sydney menswear, Gowings. Some offered free delivery, while others offered different charges for different types of delivery. Gowings told me nothing about delivery charges until I was five stages into an eight stage process of purchasing an Akubra hat.

The Hon. Diana Laidlaw: Did you proceed to buy it?

The Hon. IAN GILFILLAN: No I didn't proceed, so I must go hatless. I tried to find out what, if anything, the state government is doing to assist South Australian consumers to avoid internet ripoffs, or to assist business to trade on-line in an ethical and competitive manner. I found a one page warning to consumers from the Office of Business and Consumer Affairs about being careful when doing business on-line. I found a pitifully small two-page information sheet put out by the Department of Industry and Trade. This 'Bizfact' sheet was out of date and contained a broken link, while it warned businesses to check their own web sites to ensure that links were not broken. And that was all. There was no guide on how to capture a share of the world's fastest growing industry; there were no tips to prevent customers from deserting you and getting their goods on line from Sydney or Hong Kong; and there was no guide to consumers on the difference between fair charges for post and packaging and rip-offs.

Why has the government done so little to prepare South Australian small and medium business owners for the tidal wave of internet shopping that threatens to take away much of their traditional business? Why does the government have no online resources that can help South Australian businesses adapt to the e-commerce revolution and ride the wave rather than be swamped by it? And why has the government done so little to protect consumers and highlight the difference between reputable online traders and the sharks?

The Hon. K.T. GRIFFIN (Attorney-General): 'How long is a piece of string?' is probably a more appropriate question. We have done a significant amount to educate consumers.

An honourable member: Where is it?

The Hon. K.T. GRIFFIN: A significant amount has been done to educate consumers. I do not have it all at my fingertips, but I know that certainly last year, as we moved through the process of dealing with the Y2K issue, and earlier this year, the Office of Consumer and Business Affairs was there. It has a very extensive advisory service for consumers. I know that the Small Business Centre, the Department of Industry and Trade and others all have assistance available to small business to deal with issues that might relate to e-commerce.

The other thing is that there are a lot of private organisations, whether business or charitable, in the arena providing at least the opportunity for people to get advice in relation to e-commerce. The honourable member might want the government to hold everyone's hands, but we will not do that. One has to be sensible about it and acknowledge that, ultimately, people do have to exercise a bit of self-reliance and a bit of individual responsibility.

Not everything can come back to government to deal with every new piece of technology and every new issue that arises in the community. But we will provide a level of support, assistance and information in a variety of ways to at least put them in a position where they can identify the risks. In terms of the detail of those things that are available—possibly to enable the honourable member to find it on the internet, if it is there—I will obtain some more information and bring back a more detailed response.

The Hon. IAN GILFILLAN: I have a supplementary question. Whilst encouraging use of the internet for sales through the Office of Consumer and Business Affairs—from its document—is the Attorney aware that this method of international trade avoids the taxation obligations that other consumers have to comply with in Australia, and does he see that there is a role there for government intervention?

The Hon. K.T. GRIFFIN: The real difficulty is to identify who has jurisdiction. We know that in relation to electronic gambling, revenue issues, pornography and defamation. There is a whole range of those issues—and not just in South Australia or Australia: right around the world there is an endeavour to come to grips with the very complex legal issues about which law applies, how you identify the so-called offender, how you can recover from or prosecute an offender. There are all those issues where the internet and e-commerce are really sort of rushing very much ahead of it all. Then when you do try, as has the commonwealth government, to deal with internet pornography you get this uproar from internet service providers and content providers who say, 'Hey, don't apply the law to me.' They cannot have it both ways, and we as a community cannot have it both ways.

If we want to maintain some standards there has to be some method of intervention, and at least in the area of

pornography I think everyone would agree, generally speaking, that, because of the accessibility of the internet, there have to be some legislative measures which, in some part at least, will help to deal with the issue of offences being committed on the internet through the display of pornographic material.

The Hon. CARMEL ZOLLO: I have a supplementary question. Can the minister advise when the foreshadowed electronic commerce legislation is likely to come before this Council?

The Hon. K.T. GRIFFIN: I would hope fairly soon. The commonwealth legislation is in force. The model state legislation has only recently been concluded at the states and territories level. I would like to think that we will see it during this session.

GAMBLERS' REHABILITATION FUND

In reply to **Hon. NICK XENOPHON** (17 November 1999).

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

1. All of the recommendations of the report have been considered and the majority have either been acted on or are being incorporated into the strategic planning process of the Gamblers' Rehabilitation Fund (GRF).

Many of the recommendations of the report related to incremental improvements in service delivery and consequently have been referred to the GRF committee to progress according to resources and their relative priority. These consist of recommendations concerning research into different special needs groups, reviews of different aspects of the program and such things as service protocols.

The recommendation to base problem gambling policy on harm minimisation has been accepted and is being implemented. The recommendation that services to problem gamblers continue has been accepted, as has the recommendation that the provision of material assistance continues to be excluded from GRF services.

An expansion of the Gamblers' Rehabilitation Fund committee is being progressed.

Two recommendations were rejected in full. These recommendations were:

- that there be investigations into the cost benefit of outsourcing clinical services to private practice (the Minister for Human Services has been advised that outsourcing of clinical services has been investigated previously and found not to be cost-effective); and
- that the benefits of access to legal counsel be investigated (there are other sources of legal advice such as the Legal Services Commission and Community Legal Centres).

Four recommendations that related to funding arrangements and the contribution of other gambling codes were subject to wider government deliberations and decisions, specifically the government's response to the Social Development Committee Gambling Inquiry Report. In November 1999, the Treasurer tabled the Government's response to that Report. That response states: 'the Government will consider the level of increased funding (to the GRF) in the preparation of the 2000-01 Budget' . . . 'any increased allocation to the GRF will have to be funded in the usual way by reducing spending on other public services or by raising increased taxation revenue'.

2. As referred to above, a number of recommendations were the subject of wider government consideration. More generally, other departments will be involved as required.

3. As detailed above, a number of recommendations were dependent on the outcome of wider government deliberations.

WETLANDS

In reply to **Hon. T.G. ROBERTS** (19 November 1999).

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

Lake Bonney in the State's south-east is currently managed in accordance with the Lake Bonney SE Management Plan 1996-2000. This plan was developed by the former Lake Bonney Management Committee in fulfilment of its planning role. The plan outlines many of the management strategies for the lake, including those relating to the regulation of lake levels.

During 1999, the then Department for Environment, Heritage and Aboriginal Affairs was active in fulfilling the requirements of this plan. Specifically, the department has—

- regularly monitored the water quality of the lake;
- continued to liaise with Kimberley Clark Australia Pty Ltd in relation to their discharges into the Lake;
- undertaken extensive maintenance works on the drain outlet to ensure that it is operational; and
- compiled nominations for the reformation of the Lake Bonney Management Committee.

The beach structure referred to in the question had been used to prevent salt water and sand encroachment into the outlet drain and not to directly regulate the lake levels. In order to better manage future regulation of the lakes levels, this badly deteriorated beach structure has been removed to allow the natural coastline processes to re-establish the fore-dune and beach profile.

As the regulator is still in place, and in good working order, it will still be possible to manage the lake levels within the guidelines specified by the management plan.

KANGAROO ISLAND

In reply to **Hon. IAN GILFILLAN** (29 September 1999).

The Hon. DIANA LAIDLAW: In my response on 28 October 1999 I indicated that a reply would be provided in relation to the Ports Corporation issues when advice was received from the Minister for Government Enterprises.

The Minister for Government Enterprises has provided the following information:

1. In relation to the ports at Kangaroo Island, this question is no longer relevant based on the Government's decision to remove the ports from the sale process, while noting that Ports Corp has substantially reduced its charges on Sealink in the last five years, and Sealink has been under price control for freight services since the removal of the Island Seaway service. For the major commercial ports in South Australia that may be owned by a private sector operator, there will be a conceptually similar regulatory regime in place to ensure that prices of monopoly services do not exceed levels set by an independent regulator.

2. This question is no longer relevant as the Government has decided to remove the Kangaroo Island Ports from the sale, while noting that obligations on potential new owners of Ports Corp for the seven mainland ports in the sale will be to ensure appropriate levels of continuing access by recreational fishers, commercial fishing vessels and defence vessels. It is anticipated that similar arrangements will be negotiated between the Kangaroo Island Council, Yankalilla Council and the Government regarding recreational and commercial fishing industry access to the Kangaroo Island related ports.

3. Future management and ownership arrangements for the Kangaroo Island ports will be resolved separately from the Ports Corp sale.

EMERGENCY SERVICES LEVY

In reply to **Hon. R.R. ROBERTS** (28 October 1999) and letter of 3 December 1999.

The Hon. DIANA LAIDLAW: The Minister for Police, Correctional Services and Emergency Services has provided the following information:

Special purpose vehicles which are registered under premium class codes 18 and 68 are exempt from paying the Emergency Services Levy. To be registered under premium class codes 18 and 68 a vehicle must be either a conditionally registered farm tractor, self propelled agricultural implement whilst on roads or a vehicle registered under Section 25 of the Motor Vehicles Act, 1959.

These special purpose vehicles have strict criteria placed on them which limits their use. For example, these vehicles are ONLY to be used on roads between rural land holdings which are no more than 30 km apart and are farmed by the owner.

The registration conditions differ because a contract harvester is not likely to meet the strict criteria placed on these special purpose vehicles. A contract harvester is more likely to spend greater periods of time on the road due to their commercial nature and operate between holdings that are not only farmed by the owner. Therefore, the registration conditions do no restrict the use of the contract harvester.

Specifically in terms of your constituent, it may be that their harvester is registered within a different premium class and is thus attracting an Emergency Services Levy.

It is suggested that your constituent contact Transport SA at their local office or through the help line (on telephone number 131 084) and apply for a change of premium class.

KUMARANGK LEGAL DEFENCE FUND

The PRESIDENT: I advise honourable members that I have received a letter from Mr Tom Glynn on behalf of the Kumarangk Legal Defence Fund Inc. requesting a right of reply in accordance with the sessional standing order passed by this Council on 26 October 1999. This organisation, in its letter to me of 23 November 1999, considers that it has been adversely referred to during proceedings of the Legislative Council. Following the procedure set out in the sessional standing order, I have given consideration to this matter and believe that it complies with the requirements of the sessional standing order. Therefore, I grant the request and direct that the reply of the Kumarangk Legal Defence Fund Inc. be distributed now to honourable members and be incorporated in *Hansard*.

Response: Kumarangk Legal Defence Fund (Inc)

The Kumarangk Legal Defence Fund (Inc) (KLDF) requests that it be given a right of reply to comments made to the Legislative Council by the Hon. A.J. Redford in the course of asking questions of the Attorney-General on 10 December 1998.

In his comments, Mr Redford used quotes from an 'internet article' purportedly issued by an organisation described as Settlers in Support of Indigenous Sovereignty. The nature of Mr Redford's explanation prior to asking questions of the Attorney-General was such as to suggest that the KLDF had breached the Associations Incorporation Act by soliciting deposits contrary to the act. In quoting from the 'internet article', he also suggested that we, among others, might seek or were seeking to evade our responsibilities under defamation law by using the internet.

The 'internet article' quoted by Mr Redford in his statement prior to asking a question in the Legislative Council is not part of the materials published on the KLDF web site. It contains a number of inaccuracies which we would like to correct.

The KLDF was not formed in order to support 'aboriginal [sic] women defending a sacred site near Adelaide'. Rather, the KLDF was formed in order to 'assist in the organisation of financial, moral and legal support for the people and organisations who are being sued in connection with the campaign to stop the building of the bridge to Hindmarsh Island' as our constitution states.

The information provided to parliament about our web site in Mr Redford's explanation is incorrect. We originally had a web site with an English internet service provider (ISP). It was closed by the ISP after they received a letter alleging that our site contained material defamatory of the developers of a marina on Hindmarsh Island, Mr Tom Chapman and Ms Wendy Chapman. We have not been able to obtain a copy of this correspondence. At the time of Mr Redford's statements to the Legislative Council, we had received no correspondence from the Chapmans nor any lawyer acting on their behalf, though our postal address appears on the site. We have taken much care in an effort to ensure that our site does not contain defamatory material.

We provide the following responses to the questions asked by Mr Redford.

1. Will the Attorney investigate whether or not the conduct on the part of the incorporated body the Kumarangk Legal Defence Fund Incorporated is in breach of section 53 of the Associations Incorporation Act in seeking to invite deposits?

The KLDF is a small organisation which has raised funds by seeking donations and organising fundraising events. The KLDF has never attempted to invite deposits of the kind referred to by s.53. Our web site, which invites donations, makes this clear. We do not believe that s.53 of the act is in any way relevant to our conduct or functions. Neither Mr Redford nor the Attorney-General have contacted the KLDF in order to ascertain the accuracy of the statements made by Mr Redford to the Legislative Council.

2. Will the Attorney-General advise whether the use of the internet is creating problems with people seeking to avoid their obligations pursuant to our defamation laws?

There is nothing to prevent a civil action in defamation being taken against anyone who publishes a statement on the internet (as elsewhere). If this question was intended by Mr Redford to suggest that the KLDF is in some way avoiding its obligations, we wish to indicate that we are incorporated in South Australia, that we have a clear postal address and that we have a public officer as required of an incorporated association by law.

While we have made every effort to ensure our publications do not give rise to defamatory implications, if other people do not share our opinions, there is nothing to prevent them suing us. Subsequent to Mr Redford's questions in parliament and our response to him we have received a letter from Mr Palyga on behalf of the Chapmans indicating that we may in future be subject to a defamation suit.

3. Will the Attorney-General raise this issue at the standing committee of Attorneys-General to see what responses can be taken to prevent this obvious circumvention of the law?

If this statement is intended to refer to the KLDF, we wish to stress that we do not believe that we have breached the Associations Incorporation Act. While we have taken extensive care to avoid defamation, we do not believe that we have done anything to avoid being subject to the law of defamation.

The Hon. A.J. REDFORD: I seek leave to make a personal explanation on the topic of the document that has just been circulated.

Leave granted.

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: Mr President, the statement tabled by you pursuant to the sessional orders today makes a number of assertions in the right of reply which misquote and misrepresent what I said to this place on 10 December 1998. First, the submission states:

> . . . he also [referring to me] suggested that we, among others, might seek or were seeking to evade our responsibilities under defamation law by using the internet.

I advise that I made no such suggestion in so far as the Kumarangk Legal Defence Fund Inc. is concerned. I clearly directed my comments to the Kumarangk Coalition which, to my knowledge and pursuant to assertions made by the Kumarangk Legal Defence Fund Inc., are entirely different bodies. The two questions I asked on this topic made no reference to the Kumarangk Legal Defence Fund Inc. Secondly, the submission states:

> The 'internet article' quoted by Mr Redford in his statement prior to asking a question in the Legislative Council is not part of the materials published on the KLDF web site.

I did not assert that the internet article was published by the Kumarangk Legal Defence Fund Inc. on its web site. I clearly identified that it was published by SISIS (Settlers in Support of Indigenous Sovereignty) purportedly based in Canberra. This statement misrepresents what I said. If the Kumarangk Legal Defence Fund Inc. does have an issue with SISIS and what it publishes, it should take up the matter with SISIS. Thirdly, the submission states:

> The KLDF was not formed in order to support 'aboriginal [sic] women defending a sacred site near Adelaide'.

The Hon. Sandra Kanck interjecting:

The Hon. A.J. REDFORD: If the honourable member reads the standing order, she will see that I am entitled to notice of it. I ask her to read the standing order. I know that she has had a lot to do with this—

The PRESIDENT: Order! The Hon. Mr Redford will come back to his point.

The Hon. A.J. REDFORD: The submission continues:

> Rather, the KLDF was formed in order to 'assist in the organisation of financial, moral and legal support for the people and organisations who are being sued in connection with the campaign to stop the building of the bridge to Hindmarsh Island'. . .

Whilst I believe that the Kumarangk Legal Defence Fund Inc. is splitting hairs, I was making no such assertion. I was merely quoting the article and, again, I would suggest to the complainant to take up the matter with the author of that article. Fourthly, the submission states:

> The information provided to parliament about our web site. . . is incorrect. We originally had a web site with an English internet service provider.

Again, I provided no information to the parliament about a web site of the Kumarangk Legal Defence Fund Inc. I referred to the web site of Settlers in Support of Indigenous Sovereignty (SISIS) and not the web site of the Kumarangk Legal Defence Fund Inc. In that regard, I am happy, if called upon and ordered to do so, to lay on the table a copy of that web site. Fifthly, the submission states:

> We have not been able to obtain a copy of this correspondence.

That is between the English ISP and Mr and Mrs Chapman. The submission continues:

> At the time of Mr Redford's statements to the Legislative Council, we had received no correspondence from the Chapmans nor any lawyer acting on their behalf, though our postal address appears on the site. We have taken much care in an effort to ensure that our site does not contain defamatory material.

As I understand it, the correspondence is available to the Kumarangk Legal Defence Fund Inc. on certain conditions. Further, the defence fund incorporated might have taken much care not to defame anyone, but it has altered its site, presumably, in response to suggestions that its material was defamatory. In any event, I had no idea whether or not the complainant had a web site, whether it was closed by an ISP, or of the existence of any correspondence between the complainant and Mr and Mrs Chapman or their lawyers. Indeed, I made no reference to any of these matters, other than the article published by SISIS. Sixthly, the submission states:

> Neither Mr Redford nor the Attorney-General have contacted the Kumarangk Legal Defence Fund in order to ascertain the accuracy of the statements made by Mr Redford to the Legislative Council.

Again, I fail to see how that is either a misquote—

The Hon. P. Holloway: It's a statement of fact.

The Hon. A.J. REDFORD: And I acknowledge that it is a statement of fact. Finally, in relation to the submissions on the latter two questions, I asked:

> I point out that I made no reference to the Kumarangk Legal Defence Fund Inc. in relation to the issue of avoiding defamation laws.

Further, the submission refers to Mr Palyga and correspondence which occurred after I made the comments to the parliament. It is disappointing that the first time a citizen has exercised their right of reply in this state the submission has been littered with misquotes or misunderstandings of what the member and, in this case, I said on the relevant occasion.

The PRESIDENT: Order! The honourable member is reflecting on the chair.

The Hon. A.J. REDFORD: Lest I be misunderstood by other members in this place—

The PRESIDENT: Order! The honourable member is now debating the issue.

The Hon. A.J. REDFORD: I am moving on, Mr President.

The PRESIDENT: You identify quite properly where you have been misrepresented by the incorporation of those words, and your response to them has been very good until I intervened.

The Hon. A.J. REDFORD: Mr President, I am grateful for that at least. Lest I be misunderstood, let me record two things. I take no exception to the assertion of the Kumarangk Legal Defence Fund Inc. in the statement to the effect that it never attempted to invite deposits of the kind referred to in section 53 of the Associations Incorporation Act. It is its right to use the sessional order to answer the assertions made in parliament. Secondly, I initiated in the party room the motion to support the adoption of this sessional order, and I fully supported and continue to fully support the sessional order.

The PRESIDENT: Order! This is not a speech, the Hon. Mr Redford. You are now debating.

The Hon. A.J. REDFORD: With the greatest respect, Mr President, I am entitled to put my position. I have been misquoted and misunderstood, and I am making a personal explanation.

The PRESIDENT: Order! The Hon. Mr Redford will resume his seat. I interpreted what you were heading off to say. You were starting to debate the whole issue.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order, the Hon. Mr Cameron! Mr Redford, if you want to continue.

The Hon. A.J. REDFORD: In future, I would hope that misquotes or misunderstandings and submissions in relation to this sessional order will not be repeated.

The PRESIDENT: The honourable member is out of order in those comments.

MATTERS OF INTEREST

CALVARY HOSPITAL

The Hon. J.F. STEFANI: Today, I wish to speak about the 100th birthday of Calvary Hospital, which was celebrated on 24 March this year. Calvary Hospital was established in Adelaide on 24 March 1900 by a group of nuns from the Little Company of Mary, a Catholic religious congregation founded by Mary Potter in England in 1877 to pray and care for those who are sick, dying or in need. The company owns and operates Calvary, which is one of Adelaide's leading private hospitals and which is run on a not for profit basis. On the evening of Friday 24 March 2000, I was privileged to attend the Centenary Eucharist, which was celebrated by His Grace Archbishop Faulkner and attended by a number of heads of Christian churches, religious leaders and more than 600 people.

This was followed by the launch of a book documenting the history of Calvary Hospital. The book was launched by the province leader of the Little Company of Mary, Sister Denise Hynes. During the century since the sisters of the Little Company of Mary took control, the hospital has seen profound changes. In the spirit and tradition of the care and compassion of the Little Company of Mary, all staff at Calvary aim to provide quality personalised health care for

patients and their families and to promote a culture of respect and cooperation of all involved in the operation of the hospital.

Calvary Hospital in Adelaide continues to enjoy a very high reputation as a provider of health care services. In 1983, formal recognition was conferred on the hospital when accreditation was received from the Australian Council on Hospital Standards, and Calvary was the first private hospital operated by the sisters of the Little Company of Mary to achieve this award. This accreditation was renewed in February 1998 by the Australian Council on Health Care Standards, acknowledging the hospital's principles of a high standard of health care, leadership and management, and continual improvement in human resources. Doctors and staff have always been partners in the service of Calvary Hospital's patients and families. Some of Adelaide's most respected specialists have continued to place their confidence in Calvary Hospital, which has been the venue for some interesting events and developments; for example, from 1949 to about 1970, Mr D'Arcy Sutherland performed thoracic surgery at Calvary Hospital. In 1949, this operation was rarely done in Adelaide, and Calvary was, at the time, the only private hospital in Adelaide where this surgery was performed.

Calvary has been well to the fore in terms of other procedures, including laparoscopic spinal fusion. During the last decade, many changes have occurred in the hospital personnel, as well as the appointment of a new Director of Mission of the Little Company of Mary. Sister Thora Specht, who assumed the role at the hospital in 1994, introduced an educational program on core values and mission for the members of the board of management, the executive and the staff of the hospital. The vision and mission statement of the Little Company of Mary expresses these values in that, through their dedication and professionalism, they facilitate the health and wellbeing of patients, family and peers so that they project, in all aspects of care, the reality of a God who cares. Their mission is to fulfil their vision by providing health care of the highest professional standing in keeping with the philosophy of the Little Company of Mary.

Finally, I would like to pay tribute to the sisters of the Little Company of Mary for their contributions over the past century and offer my congratulations to all the people who have been and are involved in the running of Calvary Hospital: I wish them continued success for the future.

DOMESTIC VIOLENCE FORUM

The Hon. CARMEL ZOLLO: I was pleased recently to be given the opportunity of launching a forum which looked at the important issue of domestic violence. Entitled '2000 and Beyond', the forum was sponsored by the Migrant Women's Lobby Group and chaired by Marta Lohyn, Chairperson of the Migrant Women's Support and Accommodation Service. My colleague the member for Florey, Frances Bedford MP, was also present and closed the forum. The Migrant Women's Lobby Group, chaired by Ms Rossetta Colanero, emphasises the need to address the specific and special linguistic and cultural needs, interests and concerns of women of diverse cultural background, as well as assisting women to access reliable and quality services.

The promotion of basic human rights for women and children to live without the fear of domestic violence takes on a greater significance when it is applied to women of diverse cultural background. Migrant women have much more to contend with when domestic violence occurs. There is often a greater level of shame because of cultural differences, often a lack of recognition of the problem and lack of support within their own community, to name just a few.

Domestic violence is not a problem just for women; it is a problem for the whole community because, generally speaking, one sex perpetrates a violation towards another and therefore needs to be addressed by an inclusive society. Perpetrators of domestic violence do have a choice: domestic violence is the way they choose to resolve a conflict. The choice is unacceptable. It is a personality deficiency which can be addressed and changed.

I particularly acknowledge the work of the Migrant Women's Support and Accommodation Service Inc. for its assistance to women from a non-English speaking background. I said at the launch that, in the context of prevention, it might also be appropriate to discuss what educational assistance is available to men from a non-English speaking background who are perpetrators. Are they receiving special help outside the mainstream, help which is then pivotal in eliminating the threat of domestic violence to their partners who are the victims?

It does concern me whether we are doing enough or going about it in the right way to educate men with different cultural attitudes that domestic violence in whatever form is not acceptable, that it is a crime. The impact of domestic violence on children is well recorded and particularly disturbing. Children's needs and how to address their needs are important considerations. There is disruption to the lives of children who are removed from their homes, neighbourhood, friendships, and often schools. We all know that children see so much and, without the help needed to work through their emotions, the impact can sometimes be very long lasting.

As legislators we recognise the need to listen to the outcomes of such forums as it assists in improving legislation. I know I speak for everyone in saying legislation aimed at eliminating domestic violence enjoys bi-partisan support. Those attending the forum were also informed of the new joint NDV project launched recently. The aim of the project, which is sponsored by the Crime Prevention Unit, Attorney-General's Department and South Australia Police, is to reduce the incidence of repeat victimisation in domestic violence in the Port Adelaide and South Coast local service areas.

The areas are being used to trial this very successful project which was first implemented in the UK in 1997. I understand that the project will focus on developing and improving the ways that police, after attendance at domestic violence incidents, deal with the women, children and men involved. Each time they attend a particular event involving the same perpetrator, a different and more serious group of follow-up strategies will have to be implemented.

I do believe an important forum such as the one organised by the Migrant Women's Lobby Group gives everyone the opportunity to discuss the roles of the legal, health, welfare and educational sectors to come up with suggestions and recommendations as they relate to women from a non-English speaking background. I know we all speak with one voice when we say that domestic violence will not be tolerated in our community, and I wish the NDV project every success and congratulate those public servants who were involved in setting up the project.

NATIONAL BALLOONING CHALLENGE

The Hon. CAROLINE SCHAEFER: Last weekend I travelled to my home town of Kimba to enjoy, with many others, the conclusion of the final days of the National Ballooning Challenge which took place in Kimba over the preceding seven days. Today I thank and congratulate all who were involved with a wonderful weekend. The idea for the ballooning weekend began as a project of the Kimba Development Group in October 1998. The group believed that such an event would showcase it district, and how right it was. The group approached the Australian Ballooning Federation, and in April 1999 two representatives of the federation visited the town. In May last year approval was given to host the event.

The logistics of hosting such an event for such a small community are quite daunting to say the least. However, a committee was formed which has worked tirelessly from that time on. The event cost over $50 000 to run, and that is not counting the immense amount of voluntary time and in-kind support that was involved. So sponsorship was a first priority.

With the competition of the Olympic Games, sponsorship for an event such as this is not easy to find. The local council donated $5 000 start-up funding and Tourism SA gave $8 000. Eventually, several other major sponsors were found and on behalf of the community I would like to thank Carlton and United Breweries, Mobil, Agsave and Parnell Mogas, as well as the many other smaller sponsors who gave either money or time. The Country Arts Trust gave $3 100 for a dance and gymnastics spectacular staged by the school children. Most of that money was used to make outfits for the performers to wear. The children were well choreographed, well disciplined and, indeed, a delight to watch. It was truly a dance spectacular, with day and night performances.

The Hon. Diana Laidlaw: How many people did they get overall?

The Hon. CAROLINE SCHAEFER: I will tell you in a minute. I believe that those small amounts of seed funding represent money well spent in country communities. The balloonists were welcomed to the district and billeted in people's homes: no effort was spared to make their stay enjoyable. The Friends of the Park took them on tours into the Gawler Ranges and other local areas. The Historical Society opened the historical village and many people became helpers, spotters and so on for the various balloon crews.

The conditions were suitable for the balloonists to fly at least once every day for the week. Apparently, that is quite rare, as very often in other parts of the world the wind is too strong. The eventual winner of the challenge was Bogden Prawaski from Poland. In an emotional and sincere acceptance speech, he said he had flown all over the world but Kimba was the best. The crews were overwhelmed by the generosity of the people.

The gala and final day on Saturday was attended by more than 5 000 people and had something for everyone with Kevin Warren's aerobatics, the 'beaut ute' and 'feral ute' competitions, keg throwing, a tug-of-war, food stalls, kite flying, dance displays, show jumping and fireworks. A special attraction was the Bobcat Ballet. All this focused significant attention on Kimba with coverage by TV, radio and newspapers: Channel 10 News, Channel 7's *Discover*, GTS4, ABC TV and freelance journalists all attended. No amount of money could generate this kind of positive publicity for such a small town.

There was also a significant economic gain. It is too early for an accurate assessment but the organising committee made a profit of at least $16 000 to $20 000 and the food stalls, which were all set up by local community groups, made at least the same amount. Local businesses estimate an increase in trade profits of at least 50 per cent over the whole week. But most importantly the event focused on the positives: it raised the morale of the whole district and it showed people from all over the world what one small community can do if it pulls together and works towards a common goal. I would like to take this time to sincerely congratulate the organisers and everyone involved in what was a wonderful weekend.

Time expired.

RACING INDUSTRY

The Hon. R.R. ROBERTS: I refer today to the racing industry. There has been a lot of concern for the past few years about the future of the racing industry in South Australia. A number of things have occurred. When this government came into power, a change to the structure of racing was recommended and the RIDA system was introduced. It was put forward as a solution to all the administrative problems of the racing industry. Unfortunately, that has not been the case, as most people in the industry would agree. Indeed, I believe that the minister is not happy with the outcomes of the system.

This is what has been proposed for some time, and it has all taken place against the background of a reorganisation of the three codes, a long and drawn-out exercise. The time for release of that restructure has been put off on numerous occasions. One suspects that one of the reasons for that is because of the last election and the government's desire not to upset the industry. The government has also been contending with other forms of gambling for the gambling dollar, not least of which is poker machines, and that has put a lot of stress on the industry.

To overcome some of these stresses, I understand that the minister is trying to reorganise the racing industry. A number of attempts have been made to do that. There was to be one corporatised body to run the three codes, but that was not acceptable to the codes. After a long period of negotiation, there is now talk of three corporatised entities to run the three codes: greyhound, harness racing and what was run by the SAJC in the gallops. This has involved a long drawn-out process of negotiation with many meetings.

What is most disconcerting is that on each of those occasions when the participants in the industry tried to discuss a new corporate model or a new structure, no-one was prepared to talk about the future of the TAB and the Lotteries Commission. Basically, they were interested in the TAB. It seems incongruous to me to talk about restructuring and corporatising the racing industry without knowing what will happen to your major source of funding. It is clear that the TAB provides at least 80 per cent of the funding for the three codes, but the minister keeps insisting on talking about a restructure or corporatisation and will not discuss the Lotteries Commission.

Most people would be reluctant to buy a pig in a poke. I put to this Council that that is what the minister is asking the racing industry to do. It seems to me that what the government is really doing is corporatising the industry. Bearing in mind the problems that we have had within the industry and its vulnerability, in my view the industry is not in a sound

position to run all its affairs. We have witnessed on a number of occasions that when there has been trouble, because the government has been involved, we have been able to assist this very important industry.

So, the government is really saying, 'We want to corporatise them and they're on their own.' In recent weeks we have heard that, because obviously the government has not been able to get enough money in offers for the TAB, it has made it a job lot and thrown in the greatest money earning facility in this state (the Lotteries Commission) and said that they want to privatise it.

This is a surprise to me because, over the years, the Liberal Government and the Liberal Party have always opposed private lotteries and private racing commissions. In fact we had a referendum on lotteries which was won on the basis that they would be run by the government and the proceeds would be put into hospitals. The very people who opposed lotteries in this state (the Liberals) did so on the basis that if the commission was privatised we would have corruption such as the mafia and the triads.

It seems incongruous to me that they are now proposing to privatise something to which they were opposed before. The real problem involves uncertainty with funding in the industry. I call on the Minister for Racing to desist from this restructuring until he is prepared to come out and say what the future of the TAB and the Lotteries Commission will be so that the industry can see where it is going.

Time expired.

MEN'S AWARENESS WEEK

The Hon. A.J. REDFORD: On Monday, in the company of the member for Florey, Francis Bedford, and your good self, Mr Acting President, I attended the launch of Men's Awareness Week by the Hon. Dean Brown, the Minister for Human Services. That event took place at the Torrens Building in what used to be the old Lands Titles Office. It was a very pleasant and informative event.

Men's Awareness Week is being conducted under the auspices of the Men's Information and Support Centre. Two of the objectives of the Men's Information and Support Centre are:

> To create a place where men of all cultures and backgrounds can meet, discuss, obtain information, education, counselling, support and advocacy and to promote a better understanding of mental, physical, social, spiritual and sexual health in regard to suicide, sexual preference, unemployment and other issues affecting men.

The objectives of the Men's Information and Support Centre are ambitious, worthwhile and, I must say from my observations, difficult to achieve. Staff and volunteers have a lot of which to be proud—and I fully endorse everything that they do.

Men's Awareness Week is taking place this week. It is a major event for the community of South Australia. It consists of three nightly fora at the Norwood Concert Hall with keynote speakers discussing various issues such as relationships, parenting, mental and physical health, risk taking, alcohol and drugs, and the role of men in society today. The keynote speakers come from a broad range of expertise and appeal to men and families of all ages. The fora deliver relevant information, advice and inspiration to help men in South Australia to gain a better understanding of the important issues that confront them.

Many of us in parliament will not be able to attend the evening functions because of our commitments here. However, on Friday they are conducting 'A Day in the Mall' which is to be held in Rundle Mall with over 20 state and community organisations represented demonstrating their function in supporting men in South Australia. The main theme for the day will be 'The Men's Shed' with displays, videos and literature presenting an overview of societal changes for men and services to the community and delivering a positive message to the public of South Australia. I urge all members to take some time out to see what is happening.

This is the first event of its kind to be held in Australia. It is important to acknowledge that this is yet another example of South Australia leading the way. It demonstrates this state's desire to promote community awareness and community spirit. It is important to acknowledge this very important work. We know that men commit suicide at a greater rate than women and have much greater health problems than women. Indeed, the longevity of men is significantly less than that of women. We also know that men have difficulty with communicating their difficulties to others. This support centre will play an important and vital role.

In closing, I acknowledge the support of and the work done by the Hon. Dean Brown and, in particular, the Department of Human Services. They have given much needed support to the centre and provided it with a reasonable office, particularly when one compares it to the office that the centre had six years ago when it was no bigger than a shoe box. This support is most welcome. I, for one, and I know you, Mr Acting President, fully support and endorse the minister and his department's support of the centre. I urge all members to attend on Friday.

GAMBLING CONFERENCE

The Hon. NICK XENOPHON: Recently, I attended a Gambling Impact Seminar in Taupo, New Zealand, a one day forum reviewing the Australian research and the New Zealand evidence on the social impact of gambling, consumer behaviour and their respective regulatory frameworks. The seminar was the first public function launched by the Gambling Society Institute of New Zealand, an initiative of the Auckland School of Medicine of the University of Auckland with the support of the Otago School of Medicine of the University of Otago and others.

This Gambling Impact Seminar was a valuable exercise in reviewing current developments in terms of the impact of gambling in both Australia and New Zealand. I found it quite enlightening to see how those who are concerned and on the front line of the social impact of gambling in New Zealand deal with this issue. A sponsor of the conference was the Compulsive Gambling Society. It is interesting to note that the society has quite a different funding mechanism from that which exists for the Break Even services in South Australia, which, as described by the industry, is via a voluntary contribution of $1.5 million from hotels and clubs.

The Hon. A.J. Redford: In New Zealand?

The Hon. NICK XENOPHON: No, this is in South Australia. In New Zealand the Lottery and Gaming Act provides the funding for the Compulsive Gambling Society pursuant to the Problem Gambling Committee. So, it is a step removed from the process. There is concern here amongst gambling counsellors and those who are concerned with public policy issues with respect to gambling that the current mechanism of funding in South Australia does not allow a requisite degree of independence. I understand that the

Minister for Human Services, the Hon. Dean Brown, is currently reviewing that matter. I have been asking questions on the issue for some two years, and I hope that there will be some reform in respect of the issue sooner rather than later.

In New Zealand the legislation allows the Minister of Internal Affairs (the responsible minister) to recognise a Problem Gambling Committee to provide funds for treatment, research and education in the area of problem gambling—in other words, it is much broader than the Gambler's Rehabilitation Fund here in South Australia which essentially concerns itself with the provision of treatment. The Problem Gambling Committee advises the minister annually of a levy to be set on all gaming machines outside of casinos to assist with those statutory functions. There is also an annual site levy on gaming machines, together with licence fees, with an earmarked proportion to be directed to the Problem Gambling Committee.

In New Zealand there are some 2 240 gaming machine outlets. It has been put to me that there are now more places in New Zealand where you can have a bet on the pokies than where you can buy a litre of milk, which indicates a real issue about the prevalence of machines in that country. The maximum number of machines at a venue is 18. There are approximately 14 600 EGMs in New Zealand compared to some 12 000 plus in South Australia, which has a population of 1.5 million.

The seminar was quite valuable because New Zealand has quite a strong emphasis on problem gambling being a primary health issue. There is now a situation in New Zealand where all GPs are given criteria to identify a problem gambler: it is felt that GPs ought to be involved in intervention and refer those people for specialist advice. That is currently being developed by the AMA in this country and in this state, and it is something that should be welcomed. I believe that the AMA can learn a lot from the New Zealand experience in dealing with gambling as an issue that is, amongst other things, a primary health issue.

The seminar was addressed by the Hon. Dr Phillida Bunkle, the Minister for Consumer Affairs in the New Zealand government. Dr Bunkle made a very strong point that gambling ought to be a consumer protection issue and quoted statistics from the Productivity Commission: for instance, with a black rhino poker machine it would take some 6.7 million button presses to have a 50 per cent chance of winning the jackpot. Consumers do not have ready access to that sort of information in the current gambling industry environment.

In conclusion, the conference was invaluable in terms of expanding my knowledge of the public debate on gambling and the treatment methods for problem gamblers, and it is yet another example of the potentially quite significant benefits that members can get from using their travel allowance in a responsible fashion.

UNDEREMPLOYMENT

The Hon. M.J. ELLIOTT: I want to return to a theme that I have spoken to on previous occasions in this place, that is, the changes in employment patterns and, in particular, the growing trend to underemployment in South Australia. In fact, underemployment is a problem at least as great as unemployment. By underemployment I am talking about people who work part-time but who would prefer to work full-time, and in particular people who are employed in part-time work but who, in fact, have casual employment. It is a massively growing problem here in South Australia.

Since the current government was elected, we have had a drop in the number of full-time jobs. In fact, up until the end of 1999 there were 6 000 fewer full-time jobs than when the government was elected at the election before last. At the same time, there was a growth of 31 100 part-time and casual jobs. The government pointed to the employment figures and said, 'Look at this wonderful employment growth.' In fact, the level of full-time employment, as I said, has dropped. It has been part-time and in particular predominantly casual work that has been growing—in fact, it has probably not grown much more than the rate of population growth. Indeed, it is not a happy picture.

What we have seen is full-time permanent jobs being split up to create a larger number of jobs which do not give the same pay and conditions. For instance, casual workers cannot secure home loans or loans to buy cars; and they do not enjoy any certainty in terms of earning money to look after their families. The Liberal Party masquerades as a party that cares about families. If it cares about families, the first thing that it would care about is the security of the employment that is available. In fact, during this government's term in office, security of employment has been in dramatic decline, and more so in South Australia than any other state in Australia.

There is some good news, and it does not relate to the government itself. I recently had the opportunity to visit the Coles store at Firle. What is encouraging is that at this stage it is involved in a trial called Project 38 where it is seeking to make all its staff permanent. In fact, it had, at 49 per cent, the lowest rate of permanency in Australia for a Coles store; and its productivity was pretty ordinary. It had a massive staff turnover, which is not surprising when you have those levels of permanency.

The program has been running for about 12 months and, as I understand it, at this stage it has now reached 94 per cent permanency; and, as I said, it ultimately intends to achieve 100 per cent permanency. That compares with a national benchmark which stands at, I think, 74 per cent permanency. The store realises that the advantages for employees relate to confidence in their future, the fact that they can get regular rosters which enable them to more easily juggle family commitments, and also the fact that career prospects are then available because, as permanent staff members, they do have an opportunity to embark on a career path.

I understand that, as part of what is happening at Firle, the number of trainees who are aiming for the next position has increased from two retail trainees to 22; and a person who successfully completes their retail traineeship can then enter into a management traineeship, the number of which has increased from five to 17. As I understand it, staff turnover has plummeted and people are staying on because they have a career path. In fact, people are going on to higher levels and are being employed in other stores in Adelaide. Despite the fact that it has guaranteed permanency, there are still part-timers, although even the part-timers are guaranteed a minimum of 12 hours work. Other things that have occurred—

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

The Hon. M.J. ELLIOTT: Thank you, Mr President. I might just say that I think that this is promising and I hope that other employers take note of what is being achieved.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: TUNA FEEDLOTS

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

That the report of the committee on tuna feedlots at Louth Bay be noted.

The Environment, Resources and Development Committee received this reference in August 1999 from the Legislative Council. We were charged with establishing the legal status of tuna feedlots in use at Louth Bay as at or about December 1996, and to report on any illegality, lack of resources for fisheries officers, or deficiencies in aquaculture enforcement. The inquiry took place over a period of three months. Some 13 submissions were received and 18 witnesses appeared before the committee during that period.

The committee found that the tuna feedlots located in Louth Bay from 1996 until April 1999 did not have the legal status of an approved and licensed aquaculture development. The feedlots were initially given emergency status in response to the unsuitable conditions for tuna pens in Boston Bay at that time. I think most members would recall the situation when there was a large death event of tuna in Boston Bay around the time of a major storm.

The existing legislation governing aquaculture has no emergency provisions for such a situation, and consequently there was no clearly defined limit to the length of time the pens could stay in Louth Bay. Therefore the situation remained unregulated and the tuna feedlot owners operated their business within Louth Bay for several seasons. The committee found that this resulted in an unsatisfactory situation. The committee found that Primary Industries and Resources SA were not aware of the presence of the tuna feedlots in Louth Bay until April 1999.

The committee found that, despite knowing of the presence of the tuna feedlots in Louth Bay, the Development Assessment Commission did not act quickly enough to take action against them. As the pens had not been through the formal approval process the committee was not given the notification or the opportunity to comment on the development. This caused discontent for some members of the local community. The committee found that there is a lack of resources for enforcing and managing compliance in aquaculture. There is a need to ensure that licence conditions are being adhered to, and this could be ascertained if frequent random cheeks were undertaken. There is a need for more compliance officers.

The committee believes that the current legislation that regulates aquaculture is inadequate. The concern is the lack of control that the Environment Protection Authority has over an industry that can be a heavy polluter of the marine environment. The committee believes that sea-based aquaculture should be put into schedule 1 of the Environment Protection Act. This would give the Environment Protection Authority the ability to impose licence conditions on fin fish farmers. The committee noted that a number of recommendations made from our previous inquiry into aquaculture have not been acted upon. The code of practice for tuna farming is still not finalised and monitoring of the environmental effects of aquaculture has not increased.

The committee recommends the introduction of emergency provisions into the Development Act to ensure that a transparent and approved process can be used if emergencies, such as the Boston Bay tuna death event arise again. The committee also recommends the immediate implementation of a marker system that readily identifies the owners and managers of individual tuna feedlots and any associated equipment. I think this is something that members of the committee felt very strongly about.

The committee recommends a more strategic approach to the formulation of policy to manage aquaculture development and encourages the marine managers' forum and working group to work with all tiers of government in implementing the marine and estuarine strategy for South Australia. The committee has recommended the enactment of specific legislation to control sea-based aquaculture, and I understand that aquaculture legislation is already being drafted, and, of course, there is a new general manager, aquaculture, who has been appointed recently.

As a result of this inquiry, the committee has made nine recommendations and it looks forward to a positive response to them. I would like to take this opportunity to thank all those people who have contributed to the inquiry, including our visit to Port Lincoln. On behalf of the presiding member, the member for Schubert in another place, I extend my thanks to the members of the committees and also to the staff, Mr Knut Cudarans and Ms Heather Hill.

The Hon. M.J. ELLIOTT: I rise as a member of the Environment, Resources and Development Committee to make some brief comment on the report. We have already reported in this place on a previous occasion in relation to the tuna death incidents that occurred in Boston Bay. It was the tuna deaths which eventually led to the moving of tuna from Boston Bay to Louth Bay. The pens were dragged out and taken to cleaner waters at that stage. They were taken without any planning permission whatsoever. That may be defended in the short term, but what is quite clear now is that, having been moved in an emergency, the department did nothing more following that time to regularise the arrangements, and those pens remained illegally in Louth Bay for several years.

As I said, one might be able to defend the action at the time of shifting the pens, but people will note that we report that there should be some emergency procedures in place beforehand, in anticipation, if you like. Perhaps the tuna deaths were not anticipated but, having had such an event, so long as we have fin fish farming there may be other events like an oil spill or an algal bloom, or something, which might require a rapid movement.

The government certainly needs to anticipate an emergency and to have a process which allows movement. But, importantly, one has to ask the question: how is it that with the pens, having been moved, and that in itself can be defended, the government did not then set about a more permanent arrangement? In fact, it is quite plain to the committee that there was an awareness that the pens did not have planning approval, and yet no action was taken, and the report itself found:

This inquiry has also highlighted either the lack of will or the lack of sufficient compliance officers to successfully enforce the existing legislation.

The committee finds that the current regulations for aquaculture do not adequately address planning issues surrounding this industry.

In our previous report the committee sounded warnings about this failure to address planning issues. It cannot continue in this manner. In our findings the committee also noted evidence that tuna farming in feedlots can generate a significant amount of pollution and suggested that all sea-based aquaculture should be included in schedule 1 of the Environment Protection Act to enable the Environment

Protection Authority to impose conditions of licence on these farms. I note that, if tuna farms were in tanks on land, and you had a pipe running out to sea carrying effluent of the quantum that drops from the nets, planning permission would be needed, although I think there is a strong chance that planning permission might even be denied, without adequate cleaning up of the waters.

It is quite perverse, I believe, that a large-scale operation on land might be required to have a licence from the EPA that would enable it to put effluent into the sea but, if from the start the fish are in the sea in pens, in feed lots, the EPA is deemed to have no interest at all. That contradiction really cannot be defended, and I think the committee made that point very strongly when it said that it should be a schedule 1 activity under the Environment Protection Act.

In my view, the government has created a rod for its own back by allowing PIRSA (the department of primary industries) to be both the promoter and the regulator of aquaculture. I do not think that the two hats sit on the one head comfortably. In fact, it looks as if one of the hats has been lost and that PIRSA has been behaving primarily as a promoter and not as a regulator at all, yet it has been carrying the responsibility for development planning and for monitoring of the environment, and it has powers delegated to it from the native vegetation authority—a range of things.

The Hon. Sandra Kanck: There is a conflict of interest.

The Hon. M.J. ELLIOTT: There is a major conflict of interest, and it is surprising that the government has not picked it up. I think the government feels that, in some way, this might help to fast track things. Frankly, I believe the real danger is that aquaculture may be hindered rather than helped by this process, because it gives aquaculture a bad name in the mind of the public. I cannot see how that helps aquaculture to go ahead in the long run. I have not heard anyone make any serious challenge about whether or not there should be tuna feed lotting, although I think that many people would prefer to see us being able to spawn and breed tuna so that it is a genuine aquaculture operation. They can certainly see that there is some significant value adding and many jobs involved. However, frankly, the limitation on the size of the industry at this stage is really dependent on the available live catch and, as I understand it, we are at that limit in South Australia now.

We now have to get the planning and the environmental regulation right. As I said, it is not a question of whether or not the industry will exist or whether or not there will be jobs. For the life of me, I just do not understand the resistance that is being put up to this operation. Every other industry in South Australia knows and expects that they will have to comply with standards that protect the environment in the longer term, and there is no reason and no justification why one industry should be given an exemption from that approach.

However, the fault is not that of the aquaculture industry, and I really felt that the response of the tuna boat owners to this report was incredibly defensive when, in fact, the report did not reflect at all on the tuna boat owners. If there was any reflection, it was really on the management of the industry by PIRSA. By the way, I noted that Lorraine Rosenberg, a former member of the other place, in an interview seemed to me to defend the committee's report and findings. She seemed to understand the process and how it came about. In fact, even though she was a former member of government, I think she was critical of the government in terms of perhaps its not acting quickly enough on the recommendations that came from the first report of the Environment, Resources and Development Committee. I am sure that she, along with the fishing industry more generally, would be keen to see the recommendations of the previous report on aquaculture, and now this one, in large part, acted on expeditiously.

I hope that the government does not get somewhat picky and choosy about which ones it picks up and which ones it does not. Frankly, if it just picks up the recommendation about the aquaculture act but does not do anything else, that may take us absolutely nowhere, unless the aquaculture act recognises the need for environmental monitoring and delegates that back to the EPA—unless it recognises a whole range of recommendations that are made in this report.

While we were taking evidence, a few other matters came up that are relevant not just to Louth Bay but more generally. In particular, concern is being expressed by fishers from other industries that both the flotation equipment and anchors being used by the tuna industry should be clearly marked. The committee was told that in some cases fishers have had their nets destroyed by anchors that have been left behind and, of course, it is impossible for them later to ascertain who was responsible for that. I do not think it is unreasonable that there should be responsibility for equipment and that all equipment should be marked in such a way that, if found separately or together, the owner of that equipment can be identified.

In the very late stages of preparation of this report the work of Associate Professor Gustaaf Hallegraeff from the University of Tasmania was reported, and we took note that that recent research had suggested that pollution might have caused the sudden appearance of strange micro-organisms capable of poisoning fish. Under FOI I received documents in relation to the tuna kill, and anyone who read that documentation would realise that there was no proof and that, indeed, it was simply stirred up sediment clogging the gills that caused the tuna deaths. In fact, that was the preferred explanation by SARDI, I think, and it was the preferred explanation by the tuna boat owners, but in documents that I saw the possibility of other causes was raised. One of those possibilities was a range of toxic algae and, on my recollection, traces were reported at the time.

So, I do not think that people who speak with absolute certainty about the deaths of the tuna being caused by stirred up sediments alone have necessarily been given the full picture. I would have to say that the umpire is still out on that. It highlighted for me, at least, that there is a planning issue involved—and a planning issue not just for the state interest but for the industry itself: to have all your eggs in one basket, to have almost all the industry in one location, really did put it at significant risk, no matter whether the cause at the end of the day was stirred up sediments, toxic algae or whatever else.

There is some value in having several separated zones appropriately located—and, of course, the definition of 'appropriately' could be debated at some length. If that had been done, in all probability the huge losses suffered on that occasion would not have occurred. All we can say is that that is a past event and we can only hope to learn from it. However, we will not learn from it if anyone wants to rewrite history or try to change the facts. As I said, the facts are still open to some debate, and that debate should be seen as being a healthy one for the longer term future of not just tuna but aquaculture more generally.

I encourage members to take note of this report. Although it was said that this is yesterday's report and is now wrapping

fish and chips, I have a feeling that the committee, if it felt that its recommendations were not being taken note of, might have a need to prepare more fish and chip paper on a later occasion. But I suppose time will tell.

The Hon. P. HOLLOWAY: I support the motion that this report be noted, because the Environment, Resources and Development Committee has made a worthy contribution to the debate on this matter. There is no doubt that the tuna aquaculture industry in this state is an important industry. It returns about $200 million a year, and it provides hundreds if not thousands of jobs. Those statistics alone mean that it is a significant industry for the state and, therefore, it is an industry that requires some attention from government, particularly as it is fairly new and has been growing very rapidly in recent times in terms of its contribution to the economy. Indeed, the government has been very quick to try to claim the very rapid growth in aquaculture in this state, which is almost entirely as a result of the contribution of the tuna industry. However, the report shows that the government has done absolutely nothing to assist the industry to comply with the requirements our community could expect of it. That is something that comes out very clearly in the report.

Of course, this report had its origins in the events of 12 months ago. We had the Louth Bay fiasco, as it could be very accurately called, when a number of tuna farms were discovered operating without proper planning approval in the Louth Bay region. It was subsequently determined that they had been there since 1996. On page xiv of its report, the Environment, Resources and Development Committee states:

> There is a lack of resources for enforcing and managing compliance in aquaculture particularly within the Development Assessment Commission. Despite the higher numbers of officers in fishery compliance, these officers did not act or assist DAC to enforce the legislation in this case. The committee does not know whether the fisheries officers were hindered or not but, since the department was aware of illegal operations, serious concern must be raised as to why no action was taken.

In a radio interview on this matter, I likened the problem we have to that of tax evasion. Some 20 years ago, we had a situation where tax evasion in this country was taking off. Because the government at that time chose to ignore it, it soon became an epidemic; it was like a cancer spreading through the community. Much the same thing was happening at Louth Bay, because matters had been allowed to drift.

The Hon. Mike Elliott has already pointed out that the original tuna farms were put there for good reasons following the emergency of 1995. The problem was that the department did nothing to try to encourage the industry to regularise its activities. In my opinion, that is why this problem has arisen. Because the government and the officers concerned were happy to turn a blind eye to it, these activities just continued and grew. If the government officers had talked to the industry soon after 1995 and had tried to regularise this practice, we probably would not have had the fiasco that we saw last year, and we probably would not have had the need for this report.

When the Hon. Ian Gilfillan moved his motion last year to refer this inquiry to the Environment, Resources and Development Committee, I made a number of comments to which I will briefly refer. I mentioned that we had had so many reports on the aquaculture industry that, in my view, it was high time that we saw a bit of action from the government rather than it simply conducting new inquiries. As I indicated then, that was my initial reaction to this. However, when the government withdrew the aquaculture regulations back in May, it was quite clear that it really had no intention whatsoever of trying to improve the situation.

The point I made then was that all of us knew what the main problems were. The government itself knew what the main problems were, but it was just not prepared to act. In fact, the report basically vindicates that position. Sadly, the minister's response also confirms that he has simply brushed off the report and rejected it like he has done to a number of other reports in the past; and, no doubt, things will just drift on as they have done in the past. That will be unfortunate not just for the government but also for the aquaculture industry.

In speaking to this motion last year, I made the point that I did not think that we should be vindictive as far as the tuna farms were concerned. I also said that it was up to the Development Assessment Commission to decide what action should be taken in relation to the farms that were allegedly operating legally. However, I indicated then that the opposition's main interest in relation to this matter was that the episode not be repeated. The important thing is to learn. We do not want to see repeated the events of last year and the previous two or three years. The only way that can happen is if the government becomes much more activist in relation to this matter. I also said that I thought the government's incompetence in this matter should be exposed, and the report has certainly done that. As the Hon. Mike Elliott indicated earlier, this report is not really critical of the tuna operators, but it is certainly critical of the lack of action taken by the government on this matter.

What are the committee's recommendations? There are nine recommendations, and certainly most if not all of them could be seen as a positive step towards the future for the aquaculture industry. I will not refer to all the recommendations specifically, but I will comment on a couple of them, given that the Minister for Primary Industries (Hon. Rob Kerin) has so criticised this report. In fact, his response on ABC radio was that the recommendations of the report may not be affordable. He said:

> We are running a very good, clean sustainable aquaculture industry here. Our biggest problem is not compliance officers, it is not planning provisions, it is uncertainty.

That is a rather curious response from the minister. I do not see the recommendations as being particularly expensive. The minister seems to think that greater enforcement will cost a lot of money. The point I tried to make earlier was that, if just one compliance officer had told one of the operators who was there in 1996 to move or he would be prosecuted, the whole problem might have been solved. However, the fact is that clearly some tacit neglect or approval was given to the presence of those farms. Surely it would not have required a lot of money to enforce compliance when absolutely nothing was done over three years, so I really do not accept those criticisms.

One should also point out that, amongst the committee recommendations, there should be specific legislation to control sea-based aquaculture. That has been the opposition's view for some time, and I also thought that it was also the government's view. I have heard the minister say that the government is now supposed to enact specific legislation for aquaculture, and let us hope that it does. Let us hope that it comes into this parliament sooner rather than later.

The report makes a number of other recommendations that are eminently sensible and practical that will be helpful to the industry in improving its public relations. As I said earlier, this is an important industry, but the biggest threat to the tuna industry is excessive secrecy in respect of its operations,

along with its unfavourable public relations. The two things that are most needed are, first, the industry should operate in a much more open fashion. It is really up to the government to ensure that that happens. The government should be much more open. Secondly, if the industry addressed some of the criticisms that are probably not particularly expensive or difficult to address, it would win a lot of support. Some of the suggestions in relation to a proper marking system to identify the owners and managers of individual feedlots are eminently sensible. The tuna industry would have nothing to lose and everything to gain if such a system was introduced.

The recommendation about the standardisation of the language and measurement used to indicate the siting of tuna farms is eminently sensible. Why would that cause any difficulties to the industry? I am also pleased to see that the committee has recommended the introduction of emergency provisions in the Development Act. That is a matter that I have canvassed publicly in the past. I am very pleased to see that the committee has made such a recommendation, because that is something that the industry really needs. It is certainly a provision that exists in the act in Tasmania.

I was fortunate enough to visit Tasmania earlier this year. I looked at the salmon farms that have operated in the Huon River of that state for some 15 years now and I believe that the Tasmanian act, in terms of managing aquaculture, provides a very good model for how the tuna industry in this state should be operating.

Indeed, the whole Louth Bay fiasco originated because there were farms in Louth Bay that did not have planning approval. Ultimately, the applications for those farms were rejected when they went through the DAC and the ERD Court. One of the grounds on which those applications were rejected was the suggestion that over the years the government did not have power to require the industry to conform with proper standards. I think the fear was that, once approval had been given, the government was not able to vary it. Those are the sorts of issues that have long been addressed in the Tasmanian act and really should be—and hopefully will be—part of a new aquaculture act to enable those sorts of concerns to be addressed.

Where do we go to from here? I draw a comparison with a previous report of this committee in relation to the pilchard fishery. On that occasion the government, or the minister, rejected the recommendations of that report. Further than that, the minister was quite dismissive and critical of the work of the committee. He virtually accused the committee of being duped by individuals, probably including me and others, in relation to the findings of that report.

After the pilchard fishers continued to protest, the minister was finally forced into setting up a working group, under the chairmanship of a judge, to look exhaustively at the pilchard allocation issue. What did that report come up with just a month or two ago? It came up with a formula that was virtually identical to the original recommendations of the ERD Committee in relation to the pilchard fishery. The minister, I am pleased to say, has now adopted it.

It was rather unfortunate that we could have perhaps saved a lot of money and a lot of time if the minister had originally adopted the report of the ERD Committee rather than having to wait for a judge and his committee to come up with similar findings. One would hope that we do not have to go through that process again with this report. I hope that the minister will take a somewhat more enlightened view of the recommendations in the report in this case although, given his initial reaction, to which I earlier referred, I am not optimistic on that score.

I really believe that the tuna industry deserves better from this government. One of the issues raised in the committee is whether the tuna industry causes pollution. Well, of course it does. My argument would be that all farming activities create some pollution: that is inevitable. The real question we should be asking is, 'What is an acceptable level of pollution associated with any industrial or farming activity, what farming practices minimise that pollution and what steps should we take to allow adequate recovery of the sea bed?' It is, in my view, meaningless to debate whether or not it causes pollution; of course it does. The question is what is acceptable.

The issue in Tasmania in relation to the salmon farms to which I have just referred is how frequently those farms need to be moved and for what period the area under the farms has to be left fallow to allow it recover from the farming activities. There is some debate in Tasmania in that regard but the situation has been fairly satisfactorily resolved after 15 years of operation of that industry. It is a matter that needs to be resolved in the tuna farming industry. As this industry develops over time and as proper environmental monitoring takes place, we can fine tune our decisions to ensure that the industry is sustainable. Surely that is what all of us would want.

I will make a couple of concluding comments. First, I note that Ian Nightingale has been appointed to the department. I had the opportunity of dealing with Ian Nightingale on a number of occasions when he was with the Eyre Development Board, and I know that he has a strong interest in this subject. I only hope that, with his appointment to the aquaculture section, he will bring some enlightenment into the management of aquaculture in that section. I certainly wish him well. Time will tell, but I hope that he will bring some improvement to the management of the aquaculture sector.

Finally, the Hon. Mike Elliott raised the issue of Chattinella and the professor from Tasmania who raised the possibility that this algal bloom was responsible for the tuna deaths in the 1995 kill. In my view, it is unlikely that the cause of those deaths in 1995 will ever be resolved to everyone's satisfaction, and I am not sure that there is much point in trying. What is important is that we gauge the threat from any possible algal blooms, including Chattinella, within the aquaculture region, and we should respond appropriately if it is considered necessary.

It is important to look forward and assess these sorts of risks and ensure that we have legislation in place and that the department can make a proper response should problems eventuate. There have been a number of reports in relation to the aquaculture industry: hopefully, this will be the last for some time into the tuna industry and that the industry will fulfil its potential as a viable, growing and sustainable industry in this state. For that to happen I believe that the government will have to be more active and will have to become more involved in the development of the industry than has been the case. It is my expectation that a future Labor Government will ensure that these problems are addressed in advance rather than waiting—as was the case with Louth Bay—for a crisis before there is a response. With those comments, I support the noting of the report.

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

ABORIGINAL POLICIES

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

That this Council—

I. Condemns the federal government for its totally inappropriate and insensitive statements on the patronising and failed policy practised for 60 years of removing thousands of Aboriginal children from their parents and extended families into institutions and foster homes; and

II. Calls on the Prime Minister and the Minister for Aboriginal and Torres Strait Islander Affairs to correct this unfortunate interpretation of this miscarriage of social and human justice against Aboriginal people.

It is unfortunate political timing, but the statements attributed to the Prime Minister and his minister in relation to the government's response to the survey of indigenous Australians in 1994 (which indicated that 10 per cent of Aboriginal and Torres Strait Islanders over the age of 25 years were reported as having been separated and raised in isolated families) occurred at a time when reconciliation with Aboriginal people in the lead-up to the year 2001 was at its lowest point ever.

I suspect that many people who have been working on reconciliation over the past two years believe that the situation could not have got any worse. Unfortunately, the timing of the federal government's response to the report 'Bringing them Home' has made an already difficult situation, where a lot of people of goodwill are working towards reconciliation, almost impossible. It has become impossible for people of goodwill sitting around a table made up of new generation and indigenous Australians to be able to hold up their head and discuss and negotiate in good faith reconciliation programs, which require honesty and goodwill on everyone's part, and it is impossible for those people to make recommendations on ways in which new generation Australians can confidently work with Aboriginal and indigenous people to devise programs which allow indigenous Australians to believe that there is good faith and that the reconciliation process is moving forward.

We have had the difficult position of the Prime Minister not moving from his stated position of not giving a personal apology and saying that this current generation of Australians is not responsible for the actions and activities of previous generations. To some extent, that is correct, but the difficult position in which many indigenous Australians find themselves now has not changed from the position they were in 200 years ago, and that position has not provided a good basis for moving the reconciliation process forward.

Many failed policies have been put forward by governments of both persuasions over a long period to try to advance the development of Aboriginal and indigenous Australians alongside white society. Other Commonwealth and colonising nations have fallen into the trap of separate development where apartheid has become a formalised, state structured form of development. Until recently there has been the practice in many developed countries where separate development meant just that: there was no advancement of indigenous people, and there was a trickle down economic apartheid that did not raise either the level of democracy or the standard of living of indigenous people in those countries.

Australia had avoided that situation by putting together a separate development policy based on a very patronising policy of 'We know what is best for you based on our British or European style of advancement, and because we know what is good for us, we know what is good for you.' Unfortunately, with the best of intentions, giving the benefit of the doubt to the people who developed those separate development policies over a long period and allowing the best possible slant that racism was not a factor, we have not come far in understanding the needs and requirements of our indigenous Australians as opposed to those of new generation migrants.

There is a real need for understanding of the Aboriginal people—that is, their culture, needs and requirements, their spiritual attachment to the land and tribal associations, their interrelationship with each other and the respect that should be afforded to their negotiating leaders and elders—which has escaped most Australians. One would not think that that would escape the attention of people in politics at a modern day level because they demand standards which they set for themselves. If they do not get the respect that they think they deserve—and I include ourselves—most current members of parliament or officers at various levels of local government, the judiciary and the police force feel slighted.

Unfortunately, we do not provide that same level of understanding to Aboriginal Australians. If we started from a level of understanding of what the responsibilities are for mature decision makers in a developed society to devise programs and regimes that indicate that sort of respect for the cultural and spiritual attachment of Aboriginal or indigenous people to land and the way in which they want to develop alongside our society, I am sure that the starting point for the respect that indigenous people give to us and the respect that we should give to them would be a lot different. That should be the basis upon which reconciliation should be able to move forward.

In the past 20 to 30 years, particularly in this state, we have talked about self-determination and land rights. In some cases, we have provided land rights for Aboriginal people. However, land rights and written resolutions of self-determination do not deliver on their own. We need to provide economic and material support and assistance to enable indigenous people to advance their standard of living, education, health and housing and allow them to make social choices of how they want to live their life in our society. When our two societies have developed to the point where they are running alongside each other and are reconciled, that will be the day when we have evolved to the stage where good governance has led us to the point where we can meet, talk, mix, work and play with the indigenous community as equals.

That will be the day on which indigenous people will have the confidence to be able to say and feel that they are an equal partner in a developed society operating on their terms alongside the recent migratory Australians who have colonised this country over the past 200 years. We are a long way from that day. It does not give me any pleasure to think that we were moving in the direction where I thought reconciliation was becoming a part of our psyche. We were gaining the confidence of Aboriginal people and trying to correct many of the mistakes of past generations.

Instead of arguing over little words such as 'sorry' and whether it is 10, 15 or 20 per cent of the Aboriginal people who form part of the stolen generation, you would think that a more mature approach would be adopted by the people in positions of power, particularly at Commonwealth level, who are not only driving reconciliation but driving potentially reconciled partners away from each other. You would think there would be a more mature understanding of the matters involved in establishing the starting point for respect for both sides in this discussion and debate.

Money has been provided in the lead-up to the Olympic Games, which seems to be the big rush for a reconciled Australia. However, we have mean-spirited, ignorant comments made in isolation which have done nothing for reconciliation and which show that the real process of reconciliation, through the development of arguments from your head to meld with your heart, is not taking place. There is a divorced position between the intellectual understanding of what is required and the human feeling for the practice of what is required. Until those two parts of the process can be reconciled, I am pessimistic about how long the reconciliation process will take.

The longer the reconciliation process takes and the more money that is thrown at it, the less likely we are to get the heads, hearts, minds and intellectual contributions of our leaders around Australia to coincide. At the moment throughout the states a lot of people of goodwill are sitting around reconciliation tables and attending meetings, such as the meetings I attend. But I know how far apart we will all feel at the next meeting I attend. Not that I take any responsibility for the statements of the Prime Minister or Senator Herron, but I will feel the winds of cold rejection from the indigenous people around the table, because I know how they will be feeling. They will not be feeling as if they are a part of any reconciliation process: they will be feeling as if they are still being patronised by power brokers of the same generation almost as those who colonised the country. That has been one of the sad features of the problems that we have had to face in recent times because of those statements.

There has been some goodwill from the backbenchers of the Liberal Party in the commonwealth parliament, where brave forces have been able to represent their constituents' interests through the contributions that they have made in the parliament. I suspect that their going against the Prime Minister's wishes will set back their promotion prospects. Given what I saw of the parliamentary proceedings on the ABC late at night, I take my hat off to those Liberal members of parliament who did stand up for what they thought should have been said. The only pointer that I will be able to argue with in the reconciliation process with the indigenous people is that, although the Prime Minister and Mr Herron have made statements that have been publicly recorded and vilified, mostly in the daily press, that view does not go right through the conservative ranks in this country: there are some good people of goodwill in the party who do not believe that the Prime Minister's direction is the right one.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: No. An event coming up shortly that will test the reconciliation process and the reconciliation work that has been done over the past couple of years is a meeting in Sydney of Aboriginal people to celebrate a corroboree. I suspect that at this event there will be an expression of their feelings at a national level. It may be that some bridges are rebuilt by the Prime Minister and Mr Herron on the basis of the feeling of the backbench of the commonwealth parliament. Perhaps over the next week or two, in the lead-up to the corroboree, there will be a change of position that will allow for the reconciliation process to move forward.

The Human Rights and Equal Opportunity Commission, when conducting its stolen generation inquiry, called for submissions from this and other states and from any other bodies that wanted to make submissions. The executive summary (page 1) of the federal government's submission states:

> The commonwealth government has responded to the report of the Human Rights and Equal Opportunities Commission's (HREOC) inquiry into the separation of indigenous children, *Bringing Them Home*, with a comprehensive range of measures ($63 million) to assist those affected by the past policies and practices of indigenous child separation.
>
> This submission to the Senate committee's 'Inquiry into the Stolen Generation' discusses the prevailing attitudes at the time the child separation policies were implemented and describes the context in which a separation of indigenous children from their families should be viewed. It also questions the HREOC report's assumptions about the definition of the 'stolen generation' and the numbers of children affected. . .
>
> The government's position is that its response to the HREOC report's recommendations has been an appropriate and compassionate one concentrating on providing practical assistance for those affected by past practices. The report itself is entitled *Bringing Them Home* and it said: 'assisting family reunions is the most significant and urgent need of separated families'.

If you had read that summary a week before the Prime Minister's statement, you would have thought that the content of the submission would be enough to attract the interest of those people who are working on the reconciliation processes and for them to say that the government is on the right track to put together a package of recommendations that would assist the reconciliation process and assist the difficult circumstances in which a lot of people from the stolen generation found themselves.

As recently described in the *Age*, it is not only the 10 per cent of the indigenous population that was affected: it is also the family, the people inside the family groupings and units, who were affected by the trauma suffered by the people who were rounded up and separated from their families. So that hurt, pain and suffering that went with the trauma of separation actually passes on to more than 10 per cent of the Aboriginal community.

As white Australians, we should see ourselves as privileged to be able to live alongside a nation of Aboriginal people who are very passive, when compared perhaps to the differences in other countries in relation to the methods used by indigenous groups to get their problems settled. We should be proud to be able to learn from Aboriginal people the respect that they show for their environment. I am afraid we are not learning anything in that particular area. We should be looking to indigenous people as elders and caretakers of this country to learn methods by which we can hold strong spiritual contact and appreciation of our land, and perhaps we might be able to conserve and have better conservation and environmental practices.

Unfortunately, in the main, we do not see the practices that our indigenous brothers and sisters have had over their custodianship of this country for over 40 000 years as having any relevance to modern day developed society. We tend to see their society as not being a worthy society to make contributions to the science and the development that we govern our principles by, and I think that is quite sad. If we were able to show modern day Aboriginal people that we did care, that their opinions were important and that we were prepared to right some of the wrongs of past generations and that there was the ability to apologise formally for those past mistakes, then I am sure it would go along a long way to rectifying a lot of the problems that we have and that we face and that as legislators we now and in the future have to deal with.

We all know the problem that Aboriginal communities are having now with drugs and alcohol, wracking their development, because of the loss of faith and face in the overwhelm-

ing odds that they face in dealing with hostile sections of society. The executive summary goes on to say:

> The government does not support the payment of cash compensation. It sincerely regrets the fact that indigenous children were separated from their families and recognises that those affected need positive assistance in reclaiming their lives and families where possible. It should be noted that the commonwealth is the only party which has comprehensively taken action to address the consequences of previous actions and has implemented initiatives to address current need, although historically state and non-government organisations such as churches had primary responsibility.

I think what the government has done is that it has actually separated itself from society. It is actually saying, 'We are a commonwealth body, we reside in Canberra, we don't reside anywhere else, we don't represent anyone else, we don't take any responsibility for what the states do, and if the church has acted irresponsibly or patronisingly in dealing with Aboriginal people in earlier years then they are the ones to blame.' Perhaps what they are saying, without it having being printed in the executive summary, is that if the states and the churches failed the Aboriginal people in a separate development policy, and a failed policy of isolating young Aboriginal people from their families, then perhaps it is the states and the churches that should pay the reparation and correct the problems that occurred, and the commonwealth can withdraw from all the problems that are now existing.

Unfortunately, that is not the case. The commonwealth government has shown, by the Prime Minister's statements, what it thinks and it will be the states' responsibility, because we are the nearest to those people and, given that local government does not deal adequately with Aboriginal people in most cases, it will be the states that have to pick up the tab and it will be states that have to pick up the problems associated with any failure, if the reconciliation processes do breakdown. I can see that there will be some boycotts of the reconciliation process. Already I am told that senior Aboriginal leaders are saying that they don't want to attend reconciliation discussions any more.

There has already been a division noted within the Aboriginal community, within their leadership, about the role of the reconciliation process. Some leaders were saying that it will lead nowhere, and others were saying that perhaps we ought to try to get the reconciliation processes to overcome some of the difficulties that we have had historically and perhaps get on to a new footing and let's work constructively with those who in today's society want to work with us, to overcome the many difficulties that we face in dealing with supporting our families as best we can in a hostile society. Well, I think the tide will turn towards those who have been advocating a different form of activity than those who are supporting the sit down, talk, knock-out reconciliation discussions.

I must pay some tribute here to the chair of the reconciliation committee here in South Australia, Chip Morgan, and certainly to all those people who turn up, Shirley Peisley, and all the people who turn up to the reconciliation meetings that are held here in Adelaide, and for all of the organisation that has taken place throughout the state. I think South Australia's record with the reconciliation committee is probably better than most of the other states, and certainly the work that Dennis Ralph has done in bringing people together has been excellent.

The work of Aboriginal leaders within the metropolitan area has carried the message of reconciliation out into the regional areas. A number of regional meetings have been held around South Australia trying to get the reconciliation theme picked up, so that we can take forward our development programs for Aboriginal communities in isolated areas, in regional areas, and certainly in the metropolitan area. But everyone's job has been much harder particularly because of statements from the Prime Minister, whom Aboriginal people do look up to. Whether it is a conservative prime minister or whether it is a progressive Labor one, they still show respect for the position. But, unfortunately, what I am hearing now is that they have no respect for the person, and I think that is tragic. The executive summary goes on to say:

> The proportion of separated Aboriginal children was no more than 10 per cent, including those who were not forcibly separated and those who were forcibly separated for good reason, as occurs under child welfare policies today. There was never a 'generation' of stolen children.

That smacks of an academic separating out the head from the heart, and for good legal reasons they may have been advised that way.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: There may even be advice there from an historian whose name keeps popping up quite regularly when the Prime Minister wants to take counsel on matters to do with indigenous people. The executive summary continues:

> The category of persons commonly characterised as separated (or 'stolen') combines and confuses those separated from their families with and without consent, and with and without good reason.

That is probably a reasonable comment to make. There was a small proportion of people who, whether they were Aboriginal or white, would have been picked out for separation from their family circumstances and their homes—or, in the case of Aboriginal people, the isolated areas that they called homes—on the basis that it did not matter who they were or what race they belonged to; they would have been separated from their families and cared for by welfare due to the circumstances in which they found themselves. However, that is only a small proportion of the people that we are talking about.

What hurts indigenous people is when people start nitpicking to the point of saying that there were categories of people who did not fit the main bill of broader separation being a part of the organised policy, and they find that people are looking for instances not to include people, when in fact there were probably more Aboriginal people discriminated against in other ways who do not receive any recognition—and I make reference to a form of slavery that operated in Australia, even in enlightened times, in relation to those people who worked in and on pastoral properties. Until the early 1960s, there was never a policy practice that thanked them, or even apologised for the policy that operated then. So, there are probably more reasons to be more inclusive in the exploitative programs and the neglect and the patronising policies—I will not say racist; I will let others judge whether they were racist—to try to protect Aboriginal people and to develop them as white people in our community.

I have lived in a small community where stolen children grew up with white families, and I cannot think of any of the children who were raised in those circumstances who were successfully nurtured. From my personal experience, in most cases, throughout their early teenage years, those who were being cared for ran away from their foster homes and were either housed in other institutions or tried to make their way back to their own family geographic areas.

There is probably a lot more that I could say in relation to the damage that has been caused by these statements. We do

not want to dwell on the issue negatively, but it is difficult not to do so. When so many people of goodwill are trying to work positively towards reconciliation, it is hard when there is a combination of bad advice and the Prime Minister's reluctance to change his position in determining a basic principle in relation to understanding the depth of hurt that Aboriginal people feel in relation to the failed policies and strategies of the past 100 years in particular.

It is very difficult to understand how someone in authority such as the Prime Minister can live within a community where Aboriginal people exist (and I say this also with respect to mandatory sentencing in the Northern Territory and Western Australia) and not have a view or an opinion that indigenous people have suffered, and still suffer, the basest form of neglect and lack of equal opportunity in this country. They cannot be measured equally against white Australians in too many fields not to have special privileges and special policies apply to them, and that level of understanding required for those who need it. I have to add that there are many Aboriginal people in our community—in regional areas and in the metropolitan area—who have advanced to a point where they do not want any affirmative action to apply to them in relation to their Aboriginality or their feelings for their own culture because they are confident in their own position, having lived their lives in their own way, and they feel that they have a complete life in relation to, and are confidently moving forward alongside of, white Australians—and, in many fields, they are doing better than a lot of white Australians.

What is required is an understanding of the cultural-spiritual link to land and a cultural-spiritual link to their Aboriginality, in which they have their own pride. I think that we are missing the boat by not being proud of them also for the advancement that they have made and for the examples that they set in their own lives in their passive acceptance of a lot of the failed policies that many of us have to feel responsible for. I suppose the easiest way for us to recognise their achievements is in the field of sport. Most Australians will accept—

The Hon. Diana Laidlaw: And the arts.

The Hon. T.G. ROBERTS: And the arts. The arts, hopefully, will be the saviour in respect of employment opportunities for many Aboriginal people, and I hope that individual members of the state parliament are able to advance job creation for Aboriginal people through the arts, environmental ecotourism and those sorts of opportunities. I must thank the Minister for Transport, without being too patronising, for the program she is running with respect to driver training and education programs in remote regions for young Aboriginal people and assisting them to pick up jobs as grader drivers and forklift drivers, etc.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! The honourable member is on his feet. He was about to wind up, I thought.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: The minister interjects and shows that she has a knowledge of the programs that are running—and she probably supports a lot of those programs. But my remarks are not directed at the minister. If she were able to counsel the Prime Minister in the way that she is capable of, and if the Prime Minister stopped listening to some of the less wise counsel, perhaps reconciliation might have moved a little further forward than where we are now: we appear to be going backwards.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

ABORIGINES, CHILDREN

The Hon. SANDRA KANCK: I move:

That this Council recommends to the commonwealth government that it should—

I. Follow the lead of the South Australian Parliament and express its deep and sincere regret at the forced separation of Aboriginal children from their families and homes; and

II. Apologise for disputing the veracity of the term 'stolen generation' and adopt that expression as the appropriate nomenclature for referring to the forced removal of Aboriginal children from their parents during the twentieth century.

This motion is prompted by a simple truth: that the forced removal of children from their parents on the basis of race is profoundly offensive and that, in the light of revelations that this practice was systematic and widespread, an unqualified apology is an appropriate starting point for reconciling past injustices.

It was in the name of assimilation that past Australian governments initiated the practice of removing Aboriginal children from their families. It should be in the name of reconciliation that current Australian governments apologise for that misguided policy. I am pleased to acknowledge that this parliament has faced its past and offered its apology. I am deeply disappointed that the federal government of John Howard has not.

I have heard numerous rationalisations for not apologising. 'We shouldn't have to say "Sorry" for something we didn't do' is frequently offered as an excuse for this ungracious display. Yet it was officials of democratically elected state and federal governments who removed Aboriginal children from their parents. Surely the elected representatives of those governments are the most appropriate people to apologise. The world applauded when the Japanese government finally and reluctantly apologised for forcing Korean women into prostitution during the Second World War. How tardy the Howard government looks alongside that begrudging effort of the Japanese government. Most recently, the Pope apologised to all the people in the Catholic Church who had been hurt by the priests within that church.

Another excuse offered is that the policy of assimilation was well intentioned and, therefore, despite its disastrous impact on Aboriginal people, there is no need to apologise. This reasoning is based on the flawed assumption that apologies follow only malevolent acts. I should think the opposite is closer to the truth. The key is harm inflicted, not intention.

Others will argue that 'sorry' means that you are admitting some form of guilt, and that is certainly not the case. To say 'Sorry' acknowledges that the damage was done to a culture by the deliberate displacement of the Aboriginal people. To say 'Sorry' acknowledges that something was not done properly, and it allows a moving on. Shamefully, the Howard government has moved on from the 'We intended no harm' argument to the 'We didn't inflict the harm' claim. By engaging in a semantic argument about the meaning of the term 'generation', it has implied that the events associated with that phrase did not take place or at least are greatly exaggerated. I note that, come Anzac Day, we regularly refer to the generation of Australian boys lost on the battlefield of World War One, and I believe that was about 10 per cent of young Australian males. That fact should demonstrate to John

Howard how silly is the manoeuvring of his government. The fact is that semantics will not hide this problem.

The legacy of the stolen generation is very real. The question is: do we as a country have the will to confront and seek a resolution to the problems generated by our past? The Howard government claims its focus is on designing practical solutions to the problems confronting Aboriginal Australia. That view echoes the paternalism of the assimilation policies that led to the stolen generation. I acknowledge that in South Australia it was a Liberal Premier who moved the motion of regret. John Howard should take some heart from this. It occurred almost three years ago and, to my knowledge, there has been no legal action as a result. There is quite a degree of comfort there for John Howard.

The wording of my motion is a little less provocative than that of the previous motion introduced by the Hon. Terry Roberts, and it goes a step forward in that we would be communicating it to the commonwealth government. We teach our children to say 'Sorry' because it does not seem to come naturally to children. It is an adult undertaking to say 'Sorry.' If the federal government, through our Prime Minister, can say 'Sorry' on behalf of the Australian people, it will be a sign of our maturity. Saying 'Sorry' is the place to begin the healing process, for from the expression of sorrow comes the possibility of forgiveness and, from forgiveness, reconciliation.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

SELECT COMMITTEE ON THE FUTURE OF THE QUEEN ELIZABETH HOSPITAL

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

That the time for brining up the report of the committee be extended until Wednesday 5 July 2000.

Motion carried.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PENALTIES AND PAYMENTS) AMENDMENT BILL

The Hon. NICK XENOPHON obtained leave and introduced a bill for an act to amend the Occupational Health, Safety and Welfare Act 1986. Read a first time.

The Hon. NICK XENOPHON: I move:

That this bill be now read a second time.

This bill seeks to incorporate the amendments to the legislation previously moved by this government with respect to an increase in penalties. It is something that I previously indicated I wholeheartedly support as an overdue reform with respect to adequate penalties being applied to this legislation. The reason I have incorporated the government's amendments in this bill is that I have been concerned that this bill was introduced a number of months ago and it has seen very little progress—whether that is by design or inadvertence, I am not certain. However, it is important that the principles espoused by the government in its second reading explanation on this bill be appreciated and that it bears some reflection—

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: The Hon. Angus Redford says that the Hon. Mike Elliott is speaking on the bill today. I am pleased to hear that, but it is curious that this bill appears to have been stalled, for whatever reason, for a number of months. It is worth repeating the government's report on this bill. Last year, around 2 900 Australians died at work and 650 000 were injured. During 1997-98 in South Australia there were 24 workplace fatalities, and it is estimated that 50 000 work related injuries or illnesses are reported each year, with the annual cost of workplace related injuries to the South Australian economy considered to be more than $2 billion.

I received advice from the WorkCover Corporation today that the total number of claims reported in a 12 month period to the end of March 2000 was 30 900, and the number of income maintenance claims—that is, for weekly income maintenance—reported in the 12 month period to the end of March 2000 was 5 544. Clearly, this is an issue that deeply affects the South Australian community. Of course, the government's proposal to increase penalties is welcome. However, obviously the minister can explain why the bill appears to have been stalled for a number of months.

The Hon. M.J. Elliott interjecting:

The Hon. NICK XENOPHON: The Hon. Mike Elliott makes the point that we have not been sitting for some time. This bill was introduced a number of months ago. I would have thought it would be a priority of the government to deal with it. Notwithstanding that—

The Hon. R.D. Lawson interjecting:

The Hon. NICK XENOPHON: The minister says that it is a priority of the government, and I am very pleased to hear that. I have also sought to further amend the legislation in the following terms. Clause 6 of the bill seeks to amend section 58. The current position is that a prosecution under the act can be brought only by an inspector. We have a situation where, despite the fact that there are thousands of work related injuries, only a handful of prosecutions are brought pursuant to the act.

I make the point for the sake of completeness that I am still the principal of a legal practice that does work for injured workers, and this is obviously an area of particular concern to me. In previous years, before I entered this place, I was given information by an inspector of the inspectorate in question that indicated concern that in some cases inspectors were not given resources or, it was suggested, that they perhaps 'go slow' in dealing with a number of prosecutions.

I am not suggesting that there was political interference as such, but there is concern that the current legislation gives an enormous amount of power to an inspector as to whether or not a prosecution should be launched. It does not empower individual workers. We now have a situation where, in the past few years, there have been a handful of prosecutions in the order of 10 to 12 per annum, which to me seems absurd given the number of workers who are injured in quite horrific circumstances.

On the face of it, it seems that there has been a clear breach of the legislation in question, legislation which is there to protect the interests of injured workers and legislation which is there to provide a regime of enforcement to ensure that the law is complied with. Currently, given the handful of prosecutions, it seems that most employers can rest assured that no matter how seriously they breach the legislation they can get away with it given the current enforcement procedures.

The Hon. R.D. Lawson interjecting:

The Hon. NICK XENOPHON: The minister said 'That's rubbish; who gave the go slow'? This is a conversation I had a number of years ago whilst in practice. I am relaying information that was given to me by an inspector that they had inadequate resources, that the various policy decisions

were made by the department which, effectively, emasculated their role in prosecuting firms that clearly breached the legislation—and that, to me, is an area of concern. I am pleased to see that the Hon. Trevor Crothers is in broad concurrence with respect to that.

The nub of the amendments that I am introducing relates to removing a clause that allows only an inspector to instigate a prosecution. Effectively it would allow anyone with an interest to bring an action, in particular, injured workers. To those in the business community who say that this will bring a floodgate of litigation, I disagree with that fundamentally because the cost provisions in the legislation are still there. I am not seeking to remove those. So, in effect, if an injured worker brings a prosecution pursuant to this legislation and they do not succeed they will get a cost order against them, and the same applies if, for instance, a union brings an order. That to me will prevent any abuse of process in a sense—

The Hon. A.J. Redford: It will focus people's mind.

The Hon. NICK XENOPHON: The Hon. Angus Redford says that it will focus people's mind, and I think that that is the case. Because the cost provisions—

An honourable member interjecting:

The Hon. NICK XENOPHON: I think the situation is that at the moment we have very few prosecutions and there is simply too much power in the inspectorate. Clause 6 effectively removes the provision that allows only inspectors to bring a prosecution. To give some instances of the types of injuries that workers are sustaining and the inequities in the current system of prosecution, I will quote some information that I have received from three law firms that practise in this field, the first being Stanley and Partners. I am indebted to Mr Tim Bourne, a senior partner of that firm, for the information that he has provided. Mr Bourne makes the point that over the years the compensation payable for these work-related injuries is but a shadow of the entitlement that an injured worker would have at common law: I will focus on that later.

Mr Bourne cites a number of instances. First, a well-paid hotel manager in between jobs with a dependent wife and young children obtained casual employment in the abattoirs slaughtering animals with an electric stun gun. He was given only rudimentary training. On day two or three on the job he returned from a smoko, picked up the stun gun and touched the active electrode, throwing 10 000 to 15 000 volts from one side of his body to the other, effectively blowing most of the other hand away. No-one had told him that the trigger mechanism of the stun gun had been disengaged. The gun was constantly live so as to make the job quicker and increase the prospect of bonus wages based on the number of animals killed by the team.

The blast of electricity through his body knocked the worker into the sludge pit of animal guts and remnants. The injured hand was rebuilt, as best it could be, by a team of plastic surgeons. The recovery was prolonged and difficult. The worker received wage entitlements under the Workers Rehabilitation and Compensation Act based on his casual work as a base rate labourer despite the fact that he was entitled to obtain another job that was much better paid as a hotel manager in the near future.

Mr Bourne also provided instances of divers in South Australia's fishing industry suffering decompression illness. From 1993 to 1995 up to 30 divers suffered decompression illness as a result of inadequate or improper diving practices in the fishing industry. In addition, Mr Bourne believes there were a number of deaths. Dangers in diving practices have been drawn to the attention of employers and their employer organisations but these were initially ignored. It took protracted effort on the part of WorkCover, DLI and the hyperbaric unit of the RAH to effect change to diving practices, including the introduction of formal health and safety standards.

The divers, all young, fit and used to outdoor physical work, earned good income owing to the specialised work and their conditions when it was carried out. Almost all are now permanently unfit for diving work at any time in the future. The level of economic compensation they have obtained, according to Mr Bourne, has been quite paltry. In the instances I have referred to there does not appear to have been any prosecutions pursuant to the act.

The Hon. R.D. Lawson interjecting:

The Hon. NICK XENOPHON: The minister asks me to identify the offences. The act is very broad in its scope in terms of failing to take adequate precautions and providing an adequate system of occupational health and safety.

The PRESIDENT: Will the honourable member just keep to his debate; he does not have to respond to interjections. The interjectors will have an opportunity to contribute to the debate later.

The Hon. NICK XENOPHON: Mr President, I will not be distracted. It is so rare that the minister interjects on anything I have to say that I could not resist. I will give a number of other instances from the firm of Lieschke and Weatherill. A truck driver suffered severe chemical burns to his groin and waist as a result of moving some goods on his truck. Circumstantially, he was not warned that the goods in question contained dangerous chemicals. A number of months after the incident, the burns have left him with severe lesions and he requires regular treatment. No warning was given to him and there does not appear to have been a prosecution.

There a number of other incidences. A machine press operator was obliged to take up employment as part of a training program. He was a skilled and qualified carpenter and joiner but he was given duties as a machine press operator and was set to work on a press to produce washers. The machine he was working on was over 50 years old and there were known problems with the timing device which regulates the gate or guard. The legislation clearly deals with appropriate guarding of machinery. Unfortunately, whilst the worker was operating the machine and the guard was open, as he removed products from the working part of the press, the press came into operation and crushed his arm: he lost three fingers of his dominant hand. No prosecution was launched.

According to Lieschke and Weatherill, after the DLI was notified, it sent a form to the employer to fill in to notify of the injury. No action was taken. No workers compensation payments were made to the worker because he was deemed to be a trainee. He has not worked in the 3½ years since that accident.

Another incident described by Lieschke and Weatherill relates to a worker in a large industrial plant who was skilled in a variety of jobs. At 23 years old he was performing some work at the top of an extension ladder when the base of the ladder was knocked out from under him by other work that was being performed nearby. He was not given a worker to guard or support the base of the ladder whilst he was climbing on it. Clearly, it was an unsafe system of work. As a result of the fall he suffered a severe crush to his foot which has resulted in the loss of his employment. Two years after

the injury his workers compensation ceased and he is now unemployed. He has a significant incapacity with his foot. I understand that there was no prosecution with respect to that incident.

There are a number of instances to which I can refer. Perhaps I will do that in my reply. Palios, Meegan & Nicholson refer to a worker who worked in a timber yard. The accident occurred four years ago while the worker was operating a multi-rip saw machine which cut up fence palings of timber. The worker was feeding pieces of wood into the machine when one piece tapered off and went through the machine causing a piece to fly out through his T-shirt, scraping his abdomen and impaling his right arm. The worker had significant injuries as a result.

A machine became jammed for another worker in a pastoral company. The worker had a total amputation of the right leg at the knee whilst working on a Cambia machine, which debarks and turns logs into posts. The machine failed to isolate all four moving parts and his leg became jammed. Hence the amputation. These are all instances where I have been told that a prosecution, let alone an investigation, was not launched by the department. It appears that in all these instances a prosecution on the face of it could have been launched as a consequence of the circumstances.

Clause 7 seeks to give the industrial magistrate who hears these matters a discretion to make a payment to the injured worker on account of injury, loss or damage suffered by an employee. It provides that if it appears to the court in which the person is convicted that the employee has suffered injury, loss or damage as a result of the commission of the offence or of any other offence taken into account by the court, the court may order that a part of any monetary penalty imposed in respect of the offence be paid to the employee or to a member of the employee's family. It does not seek to impose a double penalty on the employer; it simply gives a discretion to the court to award part of the fine to the injured worker.

In considering whether part of the fine should be paid to the injured worker, the circumstances of the offence need to be taken into account: the injury, loss or damage that has been suffered; the extent to which the occurrence of the injury was in some way due to the actions of the employee or any person other than the convicted person; and any other matter which could be considered relevant by the court. The definition of 'family' includes a spouse or a child of the employee, particularly in those cases where death results from the accident.

I propose to say more in my reply regarding those proposals. I urge members who are concerned about equity and fairness when dealing with industrial accidents in the workplace to support this bill. I believe that this measure would lead to a significant long-term reduction in the level of industrial accidents in this state, because it would effectively put all employers on notice that they could be subjected to prosecution by the injured worker, and I think that would be a good thing in terms of reducing the number of South Australians who are injured in the workplace.

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

ATTENTION DEFICIT HYPERACTIVITY DISORDER

The Hon. M.J. ELLIOTT: I move:

That the Legislative Council requests the Social Development Committee to investigate and report on the issue of the impact of Attention Deficit Hyperactivity Disorder on South Australian individuals, families and the community, and in particular—

1. Recent stimulant medication prescription practices and trends within South Australia;
2. Appropriate diagnosis and treatment protocols;
3. The accessibility of the internationally recognised multi-modal treatment approach to South Australian families of young people with the disorder; and
4. Any other related matter.

I will make a few preliminary remarks. In raising this issue of ADHD there is no doubt that the trigger of concern has been the rapid increase in the prescription of amphetamines. However, I make it quite plain that, whilst that has been an initial trigger and an alert to concern, I am not saying that it is inappropriate that amphetamines be used as a form of treatment.

The only criticism I have is whether or not other forms of treatment are being considered prior to the use of amphetamines. When amphetamines are prescribed, too often they are the only form of treatment when we should be using what is called a 'multi-modal approach'. Finally, I suppose that a cause of all those problems is that, quite simply, we do not have protocols or resources in place to enable those things to happen. Having flagged that as a quick overview statement, there is no doubt that this is a significant issue that needs to be addressed. I will now seek to cover that issue in depth.

Attention Deficit Hyperactivity Disorder (known as ADD or ADHD) has grown to be the most commonly diagnosed of all childhood disorders in the United States. Whilst there are no reliable measures of the disorder's prevalence in Australia, it has been estimated that, recently, ADHD grew to be the second most diagnosed childhood disorder in this country. The impact of this growth in Australia and the US has recently been the subject of increased international attention.

In February last year, the United Nations International Narcotics Control Board warned Australia and the United States over the growing use of psychostimulants to treat ADHD, although I must say that that particular body would criticise them whether they were a good or a bad thing because they are opposed to stimulants no matter what.

Just a fortnight ago, US First Lady Hilary Clinton announced a $9 million plan to explore the impact of ADHD and its treatment with psychostimulants in the US. I hope that our standing committee can do it for a little less than that. This recent explosion in psychostimulant use to treat the disorder has also brought the matter increasingly to the attention of the public. Whilst it is important to realise that not all people diagnosed with ADHD are treated with psychostimulant medication, the recorded growth in the prescription of amphetamines prescription offers a useful guide to the nature and extent of the increase in diagnosis of the disorder over the past 10 years.

For instance, between 1990 and 1997 the number of psychostimulant prescriptions for ADHD through Australian pharmacies rose 13-fold from 22 300 to 291 000. In comparison, between 1988 and 1998 the number of South Australian young people taking amphetamines to treat ADHD rose 54-fold from just under 100 in 1988 to almost 5 400 in 1998. It is widely estimated that 50 000 Australian young people are currently using psychostimulants to treat ADHD.

Recent figures from the South Australian Health Commission Drug Dependence Unit show the number of young people using amphetamines for ADHD to be about 5 500. Whilst this rapid growth in the use of amphetamines deserves close attention, it would be a mistake to consider ADHD as just a drug issue because it is a physical function that causes social impairment. The disorder also has significant implications for education, health, justice and welfare.

The Australian Democrats first highlighted the plight of families of young people with ADHD in this place in 1997. Since that time our office has been inundated with calls from desperate families describing their frustration and despair at the lack of knowledge and inadequate services within our health, welfare and school systems. As a result, the Australian Democrats request that this Council recommend an across-portfolio inquiry by the Social Development Committee into the impact of ADHD on the South Australian community.

The Minister for Education, rather prematurely before even seeing the wording of my motion, criticised the inquiry in another place. It was never intended to be just about education; it really was intended to be about health, welfare, school systems and as a drug issue itself.

What is ADHD? I think it is useful, for the benefit of members, to take a moment to look at some background information in respect of ADHD. Like so many other disorders, the cause of ADHD is unknown. Most experts agree that it is a physically caused behavioural syndrome. However, the exact nature of its cause continues to be the subject of rigorous research and debate.

The symptoms of ADHD, however, are much clearer. They include inattention, impulsivity and hyperactivity to a level that impairs social, academic and occupational function. I know that many people will say, 'Look, sometimes I am inattentive, sometimes I am impulsive, sometimes I am hyperactive and sometimes I am forgetful.' Probably everybody suffers from all of those things to a greater or lesser extent, but it is the level at which it occurs. When it causes impairment socially, academically or occupationally there is clearly a problem.

One opinion is that ADHD is caused by developmental delay in the regions of the brain that control self-regulation. It is argued that stimulus to these regions can significantly improve attention and self-control, and consequently response to stimulant medication is proof of the presence of ADHD. Work in the United States by doctors Judith Rapaport and Simon Yelich has confirmed that ADHD may be caused by developmental delay but has dismissed the popular opinion that response to medication is proof of the existence of ADHD. In fact, they found that all children respond to stimulant medication with increased self-control and attention.

So, while the impact of medication may be more marked in children with the additional delay of ADHD, response to psychostimulants is not biological proof of the existence of ADHD. It is for this reason that the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) and the Australian National Health and Medical Research Council's Attention Deficit Hyperactivity Disorder Report recommend a range of tests and treatments for ADHD, and not the prescription of medication alone. These tests centre on a checklist of behaviours which must be exhibited in both the home and school environment.

For diagnosis to occur, these behaviours must be observed to be mal-adaptive or inconsistent with an average child's developmental level. Unfortunately, the absence of a precise biological test in the subjectivity of this checklist has placed practitioners in a very difficult position. Due to the similarity of behaviours resulting from co-morbid and other disorders, there have been cases of ADHD misdiagnosis. This is unfortunate because it has discredited those who have the discrete medical condition ADHD and it has led to a public perception that ADHD is synonymous with any poor behaviour.

As a consequence, some people have dismissed the problem surrounding ADHD as the result of poor parenting or other social influences. This is a gross misunderstanding of both the diagnostic challenges and the nature of the disorder. By definition, a disorder is a physical difference that causes social impairment. For instance, while we might look at the colour of the eyes or something else as showing a difference in modern society, it does not cause a social impairment; whereas a deficit inattention creates problems in the school and the workplace and is considered a disorder. Thus, the social environment in which a disorder exists is just as important as the physical cause. If treatment for those afflicted with disorders such as ADHD is to be effective, parliaments must actively encourage medical, behavioural, educational and social interventions for individuals.

[Sitting suspended from 6.00 to 7.45 p.m.]

The Hon. M.J. ELLIOTT: Before the dinner adjournment I was discussing ADHD and precisely what it is, and I now intend to move on to the issue of ADHD treatment. The internationally approved treatment model for ADHD is called the multi-modal approach. This involves the use of psychological and educational interventions, behavioural modification, family counselling, anger management and stimulant medication. It involves the use of all of those. It is widely agreed that psychostimulant medication, whilst useful in many cases, should be used in conjunction with and only after a wide range of other treatments have been used. Amphetamine treatment should be the last, not the first, resort.

There has been some concern that this practice has not been observed worldwide. In February 1999 the United Nations International Narcotics Control Board served a warning on several nations, including Australia and the United States, for their apparent overuse of stimulant medication to treat ADHD. Research by doctors Bussing and Zito in the United States has shown that treatment with amphetamines is often not consistent according to socioeconomic status, gender and ethnicity. It is indicated that young males of European descent from lower socioeconomic areas are more likely to be treated with amphetamines for ADHD.

These findings were recently confirmed in the South Australian context by Flinders University researchers Mr Ivan Atkinson and Dr Brenton Prosser, as well as University of Nebraska Professor Robert Reid. Their research suggested that inadequate service provision as well as state and federal policy have resulted in far greater amphetamine use in low socioeconomic and employment areas within Adelaide. I have seen graphs showing Adelaide and density of prescriptions and there is a very high density of prescription in the northern and the southern suburbs of Adelaide and those in the suburbs which largely have people with lower incomes. These findings, combined with the growing public outcry over the inadequacy and inaccessibility of the internationally recommended multi-modal approach in South Australia, make the

treatment and impact of ADHD a high priority for parliamentary attention.

While the impact of ADHD is felt most keenly in the school environment, and that is the place where it most often is first observed, the problems associated with the disorder such as aggression, poor social skills, low self-esteem and depression appear across many sectors of the community. Perhaps its expression is most obvious when children first arrive at school and for the first time are asked to sit still for more than a second. The impact was noted in the 1996 NH&MRC report on the disorder, when it observed:

> The pressures faced by families affected by ADHD, sometimes over successive generations, can threaten family affection, cohesion and survival. The dissolution of families which can follow often finds a single parent struggling with a difficult child, or children, thereby creating an even greater burden both on the single parent and on welfare agencies. For individuals, defiance or aggression in early childhood later increases the risk of conduct disorder, substance abuse and criminality.
>
> The development trajectory of early disruptive behaviour, progressing through conduct disorder to anti-social personality disorder and chronic offending predisposes to persistent offending, including perpetuation of violent crime.
>
> A recent survey recorded ADHD in 25 per cent of male prisoners. There are therefore major implications for management of ADHD, and its co-morbidities in the justice and welfare systems.

It is a point which is reinforced by local academics Atkinson, Robinson and Shute, as follows:

> ADHD is having a wide impact in Australia. Disruptive behaviour at home produces high levels of stress in parents and children, sometimes stretching relationships to breaking point. Pressure is placed on teachers to maintain discipline and facilitate learning despite the academic difficulties often associated with ADHD. School administrators are expected to provide adequate resources for teachers at a time when real-term funding for government schools is declining. A range of health professionals (including doctors and psychologists) is approached with the expectation that they can make these children 'normal'. Politicians are lobbied to provide resources for counselling and support agencies for families, and for subsidised medication and disability allowances.

With around 5 500 young South Australians prescribed medication for ADHD, and many more not recorded either because of not being diagnosed or because of receiving alternative treatments, often for co-morbidities, I am convinced that it is not only the offices of Democrat parliamentarians that are increasingly being contacted about ADHD.

A study by Dr Prosser and Professor Reid used South Australian government records to show that 2.36 per cent of South Australian 5 to 18 year olds were using medication for ADHD. I repeat that figure: 2.36 per cent of young South Australians. However, if we conservatively add to these figures at least one classroom teacher and two family members, let alone their fellow classmates, we soon see that a much larger number of South Australians are being significantly affected. It would be well over 5 per cent affected by the disorder. ADHD is a significant issue in South Australia, and it does demand serious attention.

Let us examine the government responses to ADHD. Due to the significance of ADHD, since 1996 the Australian Democrats have taken an interest in the plight of families of children with the disorder. In 1997, our correctional services spokesperson Ian Gilfillan noted the NH&MRC report into ADHD in this place. In particular, he drew attention to the NH&MRC report finding that 25 per cent of male prisoners had ADHD, and asked the state government what it was doing to meet the needs of the prisoners with ADHD. In response, on 26 May 1998 the Attorney-General, on behalf of the Minister for Correctional Services, agreed that 'the issue of ADHD crosses the boundaries of a range of government agencies and community groups'. The attorney also assured this Council that the Department for Correctional Services was providing a number of core programs to address behaviours that resulted from childhood ADHD.

Early in 1998, my colleague and deputy leader Sandra Kanck again highlighted concerns raised with our office that the multi-modal approach was not being used in South Australia. She noted that the federal government had deemed ADHD to be a state service issue and asked what the state government was doing to ensure that the multi-modal approach was being implemented in South Australia. In response, on 4 August 1998 the Minister for Transport replied, on behalf of the Minister for Human Services, that the 'Child and Adolescent Mental Health Service teams in South Australia do work in a multi-modal manner' and that 'appointments are usually available within two weeks'. Further, the minister stated that economically and socially disadvantaged groups take priority with CAMHS and, although the government did not believe that there was widespread inappropriate prescribing at that time, she said, 'This matter needs constant review.'

Although I agree with the minister that this is an issue that needs constant review, it appears that the grasp of the minister (and that is not the minister in this place but the minister in the other place) of the issues surrounding ADHD are not all they could be. In response to my question on 28 March this year about prescription levels in South Australia, the minister referred to attention deficit hyperactivity disorder as attention deficit disorder with or without hyperactivity, a term not in official diagnostic use since 1994.

While that might appear a trivial and semantic matter, there are more significant examples of this state government's lack of understanding of the issues surrounding ADHD. In July last year, I noted in this place South Australian research that showed that the full range of treatments were not reaching poorer South Australians, and that families in lower socioeconomic areas used primarily amphetamine medication as the sole treatment. I also noted research that showed parents sought ADHD diagnosis and medication only after dissatisfaction with education authority responses. I asked the Minister for Education whether the state government still asserted that the full range of services were available for ADHD and why there had been such a substantial increase in medication use. In response, the Minister for Education stated:

> Students in government schooling do not require a label such as ADHD to receive support.

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: It is certainly biologically based.

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: It affects mental approach, I suppose. The quote continues:

> Any student experiencing difficulties with learning and/or behaviour is entitled to access departmental support services.

The minister also assured me that 'resources do exist in the form of services' and that 'referrals to these services are usually made by the principal, and can be requested by teachers, parents/carers and other agencies'. I found these statements surprising given that there are currently no accurate records of how many young people are diagnosed with ADHD, with estimates based on Health Commission records of amphetamine use, and we do not know how many

young people need assistance for ADHD. Yet, even though we do not know who needs help, the minister claims that all students who need assistance are getting it in schools.

This surprise was further added to last week when the minister contradicted his previous statement in his pre-emptive response to this motion by claiming that diagnosis and treatment of ADHD was a matter only for the medical fraternity. To say that the school community is to have no say on this issue seemed a strange response, given reports of over prescription. In his response, the minister also confessed concerns about the assistance for 'all students with disabilities—because it is not just ADHD' that needs assistance. He suggested that, should the Australian Democrats introduce an inquiry into the ways of assisting all students with disabilities, the other House might consider the call.

May I reassure the minister that we are taking his advice seriously and look forward to his party's support should we broaden our call to encompass his concerns. However, this motion specifically addresses the issue of ADHD. I reiterate that, while the United Nations has warned Australia over its excessive use of amphetamines to treat ADHD, in response our ministers not only contradict themselves but cannot even get the name of the condition right.

The state government's inaction in the face of international criticism is a cause for serious concern. Last year, I had the pleasure of meeting with University of Nebraska Special Education Professor Robert Reid. While here, Professor Reid commented on his amazement at the lack of services available for students in South Australia with moderate disabilities. I pursued Professor Reid's comments over the past 12 months and found that much of the situation is as a result of state and federal government policy. A useful starting point to explore the situation is a question asked by my colleague the Hon. Sandra Kanck in this place on 17 February 1999.

Ms Kanck noted, rightly, that there is some disparity between the protection offered to people with disabilities under the commonwealth Disability Discrimination Act, which is based on international human rights instruments, and the South Australian Equal Opportunity Act. In short, the South Australian act's definition of 'disability' is far less exhaustive. She noted also that the broader definition of 'disability' in the federal Disability Discrimination Act created a disparity with a section of the Education Act, where the Director-General has the power to move students rather than provide for them within the school they currently attend.

The Attorney-General sought exemptions from the right given to parents of children with disabilities under the DDA to take complaints to the Human Rights and Equal Opportunity Commission and access free federally funded legal advocacy services. Ms Kanck requested that the Attorney-General enter discussions with his federal counterpart to ensure that South Australian families have recourse to the DDA and have their rights protected within it. In the Attorney-General's response, he reassured the Council that this situation has not been a problem, because in South Australia decisions are not made on the basis of resources but 'the interests of the child are still paramount'.

This, however, is not the only inconsistency within policy between the DDA and South Australian legislation and education policy. The DETE Students with Disability policy was developed in the early 1990s, before the passage of the federal DDA. The disabilities that are recognised under that policy are those that match the definitions of 'physical impairment' and 'intellectual impairment' under the Equal Opportunities Act, which was the only equal opportunity legislation in operation at the time. Resources are tight, and DETE area disability coordinators have to spread resources thinly, which has unfortunately created a culture of 'real disabilities' versus 'not real disabilities'. Sometimes this results in parents battling against each other to access the limited resources provided so that their children can successfully access the curriculum. In this context, ADHD is not considered a real disability.

While the DDA refers to all conditions referred to in the DSM-IV (in which ADHD is included) as disabilities, under the Students with Disability policy families have to negotiate with area disability coordinators to access resources. To do so, parents need, first, a letter from a medical specialist stating that the child has a particular disability; secondly, a full psychological assessment from a practitioner experienced in educational assessments; thirdly, follow-up assessments from other specialists as is deemed needed; and, fourthly, to then negotiate with DETE what accommodations are needed.

Conservative estimates of waiting list times for free guidance officer reports and speech pathologist assessments are around six months—and I stress that they are conservative estimates—which means a minimum of a one year delay before interventions can be commenced. Alternatively, parents must pay for consultations, with each assessment costing between $180 to $350. One parent who has contacted my office described her family's dilemma as follows:

> I have four children, three of them require education services. It has been my experience that getting services for ADHD or LD children through the public system (e.g., DETE or public hospitals) is non-existent, not only now, but as far back as our first son who entered the education system in 1984.
>
> Since then it has got worse and worse as more and more cut backs have occurred. When my son had not learnt to read by age of eight I tried to get help through the education department speech pathology service but they told me these services were not available for ADHD children. So to provide this service and others I have had to use private services. This has been a financial struggle.
>
> The services that I have to tap into are: paediatrician, psychologist, speech pathologist, occupational therapist, behavioural optometrists and SPELD, amongst others. To supply these services, we have to maintain private health insurance at a cost of about $3 000 per year. But slowly over the years the amount I could claim has dropped, and last year the amount we had to pay for speech pathology alone was $1 380. My first son finishes with the speech pathologist in April and she has recommended that he should see a tutor at a cost of $45 a week—more money we just do not have. It is an ongoing struggle for us as a family and at times very stressful.

That is one family, and she describes the costs associated with one child. She says that, of her four children, three of them have those sorts of difficulties.

In this example, the parents of the child—and I do not know whether you can describe them as affluent—have been able to find the money to meet these costs. They are well educated and better able to advocate for their child and still they are struggling to get by. What about the families who have none of these advantages? Such situations continue because the state government's definition is out of line with international human rights regulations and national definitions for disability. Students with ADHD in South Australian schools are not entitled to any additional accommodations because of the disorder. This leaves many families struggling and who knows how many more stranded without assistance for their child's difficulties.

Some children will qualify for assistance for other disabilities or comorbid difficulties under the students with disabilities policy, which is based on EOA criteria. For those who do not qualify within the narrow criteria, they must

prove that their child has a disability recognised by the DDA and then what resources the child needs. Ironically, if families are successful in being awarded the disability category under the DDA, they will be eligible for more support than those already receiving assistance under the students with disability policy. If we imagine for a moment the costs involved with a family successfully becoming eligible under the DDA, it soon becomes apparent that the EOA and the students with disabilities policy discriminates against families of children with ADHD.

Not all families are capable of finding the hundreds of dollars necessary for each child just to obtain their basic rights within South Australian schools, nor would they have the knowledge and the know-how to go about it. In short, more affluent families can afford to pay independently for the full range of professional services required under the multi-modal approach and, should they require extra educational interventions, they have the resources to pay for the reports necessary to access these interventions. This leaves families in the lower socioeconomic areas increasingly relying only on Medicare, bulk billing and the pharmaceutical benefits scheme and cheap listed dexamphetamine as the only treatment available for ADHD. This trend has been quantitatively confirmed by figures from the national Department of Health Services on dexamphetamine use since it was placed on the PBS in the mid 1990s.

The trend of low income families being forced onto psycho-stimulant medication alone in South Australia was also confirmed by a locally based article published in the United States by Professor Reid and Dr Prosser. This study highlighted the problems caused by inadequate policy and services in South Australia, and it used Australian Bureau of Statistics and South Australian Health Commission figures to find that amphetamine use for ADHD was higher in areas of low income and low employment. In response, I commenced a series of community information and consultation meetings on the condition with South Australian and international leaders as guest speakers. The purpose of these forums was to provide information to parents, as well as to try to gauge the impact of ADHD on the South Australian community. Quite frankly, I was overwhelmed by the community's response, with over 100 people attending each occasion. I stress that the meetings had quite little publicity beforehand.

The Minister for Education was invited to these meetings but, unfortunately, neither he nor his designated representatives were able to attend. Those who attended heard the stories of desperation, frustration and despair told by parents and teachers trying to do their best for the young people with ADHD under their care. In fact, if the minister had heard those comments, he would realise that the sorts of claims that have been made in this place and elsewhere simply do not stand up in the real world. Qualitative research by Dr Prosser released in October 1999 confirmed his quantitative findings and highlighted that inadequate service provision for ADHD in South Australian schools and the reliance on medication alone presented serious social and academic challenges to children with ADHD as they enter adolescence. This research, along with community forums and the ongoing public cry for help from South Australian families, strengthened the Democrats' resolve to pursue this issue.

Early this year I called a meeting with the key players in ADHD in South Australia to consider what might be done at a political level to help struggling families. Again, the same stories of misdiagnosis, misunderstanding of medication, inaccessibility and unaffordability of multi-modal treatment and state government denials that there is a problem were told. An outcome of this meeting was the decision to call for a cross-portfolio inquiry into the impact of ADHD on the South Australian community, with particular reference to the appropriate diagnosis and treatment protocols, as well as ways of ensuring that the multi-modal approach is implemented. The common theme of government responses has been reassurance to the public that all the necessary services are available and reaching those in need. That just simply is not the case.

The state and federal government response to the issue of ADHD has been at best half-hearted. The federal government, as noted in the NH&MRC report, sees ADHD to be a health issue and, hence, has delegated responsibility to the respective States. States on the whole have been happy to pass the political hot potato of ADHD between portfolios and ministers. It appears that the health minister thinks that it is an education problem, and the education minister thinks that it is a health problem. While it clearly impacts across both those portfolios, it also impacts across justice and onto drug issues, etc. It is an issue that just does not settle anywhere and does not have any ownership. Admittedly the complexity of ADHD makes it difficult to fit within any one portfolio, but still no minister has shown the initiative to lead the way with ADHD.

Without a clear policy on ADHD, schools are left to find support for students with ADHD through comorbid difficulties either under federal literacy and numeracy projects or within students with disability behaviour and management policies, the difficulties of which I have already highlighted. Given the current difficulty in obtaining support for ADHD under these policies within the statewide system of South Australian public schools, there is also significant concern amongst parents that this support will be even harder to access under the individual school model of Partnerships 21. This has become an even greater issue of concern in the light of the recent abolition of the Education Department's equity standards branch.

Under the Victorian version of Partnerships 21, schools were exempted from equity standards, because they were deemed anti-competitive. South Australia has now followed suit by abolishing the equity watchdog and shifting responsibility for funding of special needs students to individual school councils. In this way the state government removes the body which may point to the need for research into the effectiveness of current ADHD interventions and shifts accountability for the lack of services for students with ADHD to individual schools. It is a long way from the high hopes of the interagency working group on ADHD instigated in 1996.

The final report of this group, released late last year, was not supported by sufficient human and financial resources to make it feasible and workable in schools. Unfortunately, it did little more than clarify support within existing services. In effect, the state government made a statement that the multi-modal treatment approach will be available to all South Australian young people through these documents but then provided no additional human or financial resources to make that possible. Again, it has been left to individual schools, teachers and parents to implement the state government's stipulations.

That the good intentions of the interagency working group fell short was the theme of a critique by Atkinson, Robinson

and Shute. They found no specific services available for ADHD in South Australia. In fact, they found as follows:

> . . . the two policies with greatest relevance do not serve the children well (that is, mismatch in the case of discipline and omission in the case of disability). The result of this system has been that inservice training regarding ADHD has been provided to teachers on an ad hoc basis with many teachers apparently obtaining information through self-generated networks.

This critique also found that, although theoretically services were available for students, without the ADHD or disability label in South Australia in practice financial and human resources were limited, and an unofficial priority was given to those with recognised labels or extreme problems.

Dr Prosser also noted this gap between service provision theory and practice for ADHD in a recently completed international study. The Prosser study found, first, that current responses to ADHD within Australian education departments were primarily reductionist classroom intervention strategies centring on notions of individual deficit. Little consideration had been given to the social impact of ADHD, the role of government policy and the significant social barriers to learning and success of students with ADHD in schools. Dr Prosser remarks that this situation is perhaps not surprising given the recent emphasis in federal education policy on market demands and funding supplied on the basis of individual deficit rather than social justice, equity or need.

Secondly, the study presented a picture of South Australian schools in a quandary over how to balance the needs of the many with the needs of the few in a context of increased integration of students with special needs and decreasing real funding resource provision.

Finally, the study also found that, while medication was often effective in calming students in the primary years of schooling, as young people entered adolescence, secondary school made increased social and academic demands. It found that, when the opportunity to develop social skills with students in primary school through a multi-modal approach was neglected by an emphasis on medication alone, significant problems in adolescence emerged.

Increasingly, research has shown that federal and state responses to ADHD thus far have done little more than reveal a lack of understanding of the complexity and seriousness of the condition and its impact on the community. In fact, some research suggests that current government policy may be encouraging the growth in solely psychostimulant responses to ADHD. That may not be the intent of government policy but that is, unfortunately, the practical effect. A parliamentary inquiry is imperative to explore whether, in fact, this is the case. In summary it appears that—

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: You might say 'Oh, good' but 2½ percent of our kids is an awful lot. In summary it appears:

1. Although the state government has records of how many children are taking amphetamines for ADHD, at this time it has no way of recording how many young people are diagnosed with the condition and hence cannot monitor the implementation of the multi-modal treatment model.

2. Although the state government assures the public that multi-modal treatment is available for all families of children with ADHD in South Australia, there is growing international academic and public concern that the full range of recommended treatments are neither affordable nor accessible to many families.

3. Although the state government rightly accepts that supervised amphetamine treatment is part of the multi-modal model, it is yet to explore concerns that sole amphetamine use to treat ADHD is higher in lower socio-economic areas because of current legislative inconsistencies.

4. Although the commonwealth DDA recognises ADHD as a disability, South Australia's EOA, and hence education policy, does not, leaving families bearing the significant financial cost to prove their child has a disability under the DDA.

With these things in mind, it is high time for a parliamentary inquiry into the impact of ADHD on our community, as well as how to ensure that the internationally approved and recommended multi-modal treatment model is available to the more than 5 500 South Australian families afflicted by the disorder.

While I have been critical of government policy until now, I suppose one does recognise that it is not until very large masses of evidence accumulate that governments respond. I believe the evidence is now there. I believe that an all-party standing committee of this parliament will treat this in a non party political sense, and I am very hopeful that it will make recommendations that the government will act upon.

I call upon all members in this place to support this Democrats motion to request that this Council recommend an inquiry by the Social Development Standing Committee into the impact of ADHD on the South Australian community and the current accessibility of multi-modal treatment.

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

PARTNERSHIPS 21

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

That this Council expresses concern over the pressure placed on school councils and school communities to enter Partnerships 21 rapidly without a chance to properly assess the impact on their schools in both the long and short term.

(Continued from 10 November. Page 362.)

The Hon. R.I. LUCAS (Treasurer): On behalf of the government, I oppose the motion moved by the Hon. Mr Elliott. The government, and in particular the Minister for Education, does not accept the contention in the motion that pressure has been placed on school councils and school communities to enter Partnerships 21 rapidly without a chance to properly assess the impact on their schools in both the long and short term.

The minister advises that involvement in Partnerships 21 has always been promoted as voluntary and that all schools and preschools in South Australia are aware of that voluntary policy. I do not have copies with me, but I am advised that there is a good number of pieces of written material produced by the department which indicates clearly that the decision as to whether or not they want to enter Partnerships 21 is to be taken by individual schools and school and preschool communities. I am advised that these communities have always clearly understood that they could opt into the scheme when they were ready and that the decision was theirs and theirs alone.

A large number of schools and preschools did a great deal of work preparing for local management from the time of the launch of the program in April 1999. I am referring to the 'Community partnerships in education' or Cox report which, as I said, was launched in April 1999. I am told that approximately 80 per cent of all sites expressed interest in joining the

scheme at some stage. I hasten to add that I am not trying to indicate that all 80 per cent of sites were prepared to join the scheme in the first stage but that 80 per cent indicated that they were prepared to join or expressed interest in joining the scheme at some point during the number of stages that were offered to schools in terms of timing their participation in the scheme.

I am advised that more than 80 information sessions were conducted across the state to enable school and preschool communities to assess for themselves the benefits of the scheme before they were required to sign up for the first round and that 40 per cent of all sites across the state signed up in the first round. For the year 2000 additional flexibility has been introduced enabling schools and preschools to enter the scheme at a time that best suits them during the year rather than at predetermined deadlines.

The minister advises that there is continuing strong support for the scheme and that, already, 93 schools and preschools have indicated that they will join the scheme this year. It is the view of the minister and the department that the pressure that exists in relation to Partnerships 21 comes from school and preschool communities themselves which seek greater flexibility in terms of the timing of their opportunity to join the Partnerships 21 scheme. Certainly, the early testimony from school council chairs, school councillors, principals and teachers has been to encourage rather than discourage further school communities from joining and participating in the scheme.

If Partnerships 21 was being viewed in the light which the honourable member portrays, those schools that are currently participating in the scheme would be loudly proclaiming their alleged unhappy experience to those who have not yet participated and there would not be this steady and continued strong support (according to the minister) with schools and preschools indicating on the basis of what they have heard that they, too, would like to be part of the Partnerships 21 program.

Information provided to me by the minister highlights a number of the benefits of Partnerships 21. I do not intend to go through all those benefits during this debate. I am sure that all members, irrespective of their view of Partnerships 21, will at least concede that there are positive aspects. I should not say 'all members', but perhaps some members will acknowledge that there are positive aspects to the Partnerships 21 program. For example, I think it is interesting that, in Victoria, Premier Bracks, who garnered some support from the Institute of Teachers or the education union by promising to get rid of Schools for the Future has, within a short space of time of being elected, organised a U-turn in that regard: whilst he has announced the nominal end of Schools for the Future he has now established a working party to look at a model to give greater autonomy to local school communities the Bracks way rather than the Kennett way.

I think that is a fair indication that Premier Bracks and his government, whilst having garnered the union vote by promising to get rid of Schools for the Future, have run into significant opposition from local school communities—in particular, principals, school councils and parents who, after all, will vote in forthcoming elections—because they have enjoyed some of the benefits of greater autonomy at the local school level in Victoria and want to see a continuation of that, not a return to the bad old days where the education union maintains, de facto, a veto right on any major policy change within our education system.

Most parents now accept that from a state education system point of view it is entirely unhealthy to have a system that is captive to the—what is a kind way of putting this?

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: I beg your pardon—to the particular educational philosophies that the Janet Giles and the cold war warriors of the left from within the union and Labor movement in South Australia in terms of their capacity, de facto, to veto major policy change by a government, a minister or a department.

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: Well, it is interesting that Janet Giles having served her two years as president, when she had to go back to school to teach students actually managed to manufacture a set of circumstances in which she parked herself as a vice-president of the education union and is now seeking—

The Hon. R.R. Roberts: By popular demand.

The Hon. R.I. LUCAS: Of her own faction, that's true. Heaven forbid that she should go back to school to actually teach or work within schools as she is required to do and, indeed, had committed to do in her earlier runs for the presidency and an executive position within the education union.

The point that I make is that there is an international and national movement to try to escape from the cold war thinking of past Labor Governments and teacher unions that it is they who know what is best for our students, parents and schools. Shock, horror that a government might actually come along and disagree with their ideologies and views of what is good and what ought to be done within our schools and for our children.

That is why Labor Parties in Australia, and Democrats for that matter, will always jump to the tune of the education unions—because they share a similar educational philosophy to the Teachers Union in terms of control and management of our school systems. That is why there is this opposition from parents and school communities to that restrictive thinking regarding the future needs of our schools.

If we had forever been bound by the thinking of Teachers Union executives, the Labor Party and the Australian Democrats of the world, we would never have seen the move towards greater concentration in terms of performance assessment, measurement and testing—a national and international trend that is now being embraced by governments around Australia and around the world.

The Hon. T.G. Roberts: I thought you were going to say we would never have seen a man on the moon.

The Hon. R.I. LUCAS: I am not sure where the Hon. Mr Roberts is at the moment: I will leave him dreaming about the man on the moon. I will continue talking about the important issues of education and education direction and the worldwide trend for parents wanting to have a say in the operation of their schools and school communities and in the future educational direction of the students and their school communities. I will continue talking about parents believing that they, too, have a right to have a say in educational direction as opposed to the views of the Teachers Union executives, Labor governments and Australian Democrat members as well, as regards their support of the views of the Australian Education Union.

It does not matter how many motions such as this we have which express concern or condemn or censure governments and ministers for giving parents greater power and toadying up to the Australian Education Union to try to garner extra

support, parents will continue to reject that sort of notion and they will, in an evolutionary way, continue to embrace ministers and governments who are prepared, in a sensible and reasonable way, to extend the powers—

The Hon. T.G. Roberts: How many embraces did you get?

The Hon. R.I. LUCAS: Lots from parents, I can assure you: none from the Teachers Union or those who supported it.

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: Exactly; I thank my colleague for those kind thoughts. The Hon. Terry Roberts will be very surprised to find that some of the educational reforms that this government has introduced will continue. As with basic skills testing, whilst the educational troglodytes that I have referred to earlier will become fossils of the past in terms of educational thinking, skills testing—actually giving parents information on how well the students are doing rather than some of the educational philosophies that were inflicted on our students and schools in the 1970s and 1980s—is the sort of information parents have been asking for.

That is what Partnerships 21 is about in part—parents saying, 'We do not want what we have been delivered by this restrictive ideological thinking of the unions and others. What we want are things that are important to us. Give us an opportunity to have a say through a program such as Partnerships 21. Give us an opportunity to participate in the schooling of our students.' As I said, irrespective of the number of motions such as this that we debate, whether or not successful, it is inevitable that the inexorable movement towards greater autonomy within schools and a greater say by parents will continue.

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

AUDITOR-GENERAL'S REPORT

Adjourned debate on motion of Hon. R.I. Lucas:

That the report of the Auditor-General, 1998-99, be noted.

(Continued from 10 November. Page 373.)

The Hon. P. HOLLOWAY: I support the motion. As he has done on previous occasions, the Auditor-General has again done us a great service in highlighting the many financial issues, and I guess one could say ethical issues, that have arisen under this government. It is very interesting to note that each report that the Auditor-General releases seems to have more and more volumes with more and more pages in those volumes, and I think that that is a fair reflection on the moral standards of this government.

Under this government we have seen a breach of numerous longstanding conventions in its conduct in the parliament, and it seems that this behaviour has spread outside the parliament as well. The way the Auditor-General's report has grown every year is almost like Pinocchio's nose—it seems to grow longer with this government's malpractice.

There are many issues that one could cover from the Auditor-General's Report, given that there are well over a thousand pages in all his volumes, but I wish to cover only a few issues tonight given that such a long time has elapsed since we first received it. Many of the issues that the Auditor-General has raised have been canvassed in other debates in this place. For example, there has been the Hindmarsh Stadium debate, the various electricity issues have been covered and there have been many questions in this parliament on some of the other matters that the Auditor-General has been investigating. I think that, in the future, we can expect that we will be getting even more reports from the Auditor-General, given the references that have been given to him on matters such as the Hindmarsh Stadium. We certainly look forward to receiving those reports.

I wish to make a few comments about the economy, because, in many ways, it is the most important area that we would expect comment on from an Auditor-General—his views on the state of the economy and on the keeping of accounts by the government. It is most interesting that, in relation to the budgetary strategy of this government, the Auditor-General has found that the government has not really kept to its May 1994 financial strategy. In report A.2-13, he says:

> . . . the trend in the overall level of spending by the non-commercial sector was upwards. . . and substantially higher than projected in May 1994;

Of course, this contradicts the government's claims that it has made reductions in outlays. He also says that outlays are expected to grow significantly from 1997-98 to 1999-2000, and then to be generally maintained at that higher level. Indeed, the last budget by this Treasurer raised outlays by over 5 per cent in real terms. Of course the problem with this government is that it has its priorities all wrong. It has actually been increasing spending. It likes to portray itself to the public as having great discipline and likes to pretend in the wider public arena that the government has been responsible, but in fact—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I think we really have to ask the question how it is that this government has raised outlays by over 5 per cent in real terms but there is still so much unmet need in basic services. The answer is that this government has its priorities completely wrong. The Auditor says that increased spending has exceeded any reductions in outlays, and this has been covered by increased taxes. He says that over the two years 1998-99 and 1999-2000 taxes will have risen by $424 million. That is nearly half a billion dollars over two years, and yet the Treasurer continues to claim that he and his government are responsible economic managers.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: We certainly can. The Auditor-General has done a great job for us on things like the Hindmarsh Stadium, for example; but I will perhaps come to that in a moment. Some $424 million is the increase in taxes over two years.

The Hon. L.H. Davis: Tell us where the waste is, Paul.

The Hon. P. HOLLOWAY: I will; that is the whole purpose of my speech. It was going to be a brief speech; perhaps it will have to be a bit longer now to cover some of these things that obviously the Hon. Legh Davis requires answers for. The Auditor-General also estimated that the decision to push out full finding of superannuation liabilities by an extra 10 years gives the budget an extra $44 million per annum at least. The Auditor has also said repeatedly that this government has used super funding as a balancing item to be adjusted to make it look as though the budget target is being met. The effect of doing this is that net debt plus super liabilities will be $600 million higher in 2003 than they were

in 1997. Yet this government keeps telling us how important it is to run tight budgets.

The Auditor-General has also criticised the fact that the South Australian Asset Management Corporation dividends are not treated as abnormal items in the present budget. This helped, of course, for the Treasurer to present this year's budget as balanced, although following the withdrawal of the ETSA tax that this government had proposed we now know that the budget will again be in deficit this year.

The Hon. L.H. Davis: Where is the waste Paul? You haven't answered the question.

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Even though the South Australian Asset Management Corporation dividends—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: One of the great ironies of this budget is that the dividends from the old bank, the bad bank, are the only things that are actually keeping this government's budget balanced over the next two years. Of course, the government has put off $160 million in dividends for one year; it just keeps shuffling them from one year to the next so it can get the bottom line, the nominal budget figure that it wants. That is a matter that the Auditor-General has been referring to for some time. One of the items that we notice, too, from the Auditor-General's Report is that the losses expected from the co-generation deal that was entered into by this government have increased from the $97 million estimated in 1997 to $130 million today. So there is $33 million, for the Hon. Legh Davis's benefit.

Members interjecting:

The Hon. P. HOLLOWAY: The Treasurer managed to negotiate a contract with the private sector in which the taxpayers of South Australia were placed in a very poor position. Of course, in fairness in this Treasurer, it was the previous—

Members interjecting:

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

The Hon. P. HOLLOWAY: I would have thought that the hopeless people were those who managed to enter into that deal and lose the taxpayers of this state that much money. They are the people who are hopeless, Mr Acting President. The other area we have noticed where there has been a blow-out in expenditure, and perhaps this is another element to the answer that the Hon. Mr Davis so badly seeks, is in relation to the explosion of the number of executives earning $100 000 or more. If one looks at the Electricity Trust for example, just as the opposition predicted at the time of the disaggregation of ETSA and Optima Energy—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, they were certainly with the government for seven months of the financial year. But there had been a blow-out in upper management. This year there are 74 $100 000-plus executive salaries, compared with 52 in 1997. So you can see it is about a 40 per cent increase.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: I would have thought that a 40 per cent increase in executives earning over a certain level in two years does not reflect good management. Is it any wonder that the outlays of this government have been growing?

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. P. HOLLOWAY: Perhaps that is how we can explain why outlays are up by 5 per cent in real terms but the services that are being provided to the people of this state have been cut. So this government has a lot to answer for. The Auditor-General also, of course, made a number of comments in relation to the Electricity Trust, but I will not go into those things now.

Members interjecting:

The ACTING PRESIDENT: Order! The Hon. Paul Holloway is on his feet and should be given the opportunity to be heard.

The Hon. P. HOLLOWAY: Thank you for your protection, Mr Acting President. I now wish to turn to a couple of the issues that the Auditor-General raises in relation to the general behaviour of this government. One of them is the appointment of CEOs. As I have just indicated, this is certainly an area where there has been a real blow-out under this government. Just let us take the case of Mr Ralph. I think Mr Ralph previously worked for the Treasurer when he was Minister for Education. When Mr Buckby became the minister he was quite happy to have Mr Ralph as his CEO, but just a few months afterwards he decided that he did not want Mr Ralph any more and so, of course, a position was created for him at a university, and Mr Ralph has now been given a position earning a salary that most members of the South Australian community could only dream of. I think it is something in the vicinity of a quarter of a million dollars a year to be involved in that particular organisation.

But the Auditor makes a number of points in relation to CEO employment contracts. The Auditor-General gives clear warning on the current trend to allow ministers or the Premier to dismiss a CEO at will. He encapsulates his line of reasoning when he states, and I quote from Volume A.1 of the report (page 25):

> In the public sector employment contracts have been developed to introduce not security, but rather insecurity, into the employment contracts of senior public servants.

That really goes to the heart of the matter. This government, and other conservative governments in Australia, are seeking to politicise the positions of chief executive officer in all the various departments. This is going against the public interest. The Auditor warns that it is dangerous to link too closely the public and private sectors. While there are obviously some similarities between the two sectors in areas such as administration and management, the Auditor states, and I quote from page 26 of Volume A.1:

> There is a question as to whether, in adopting private sector models, sufficient regard has been paid to the fact that the relationship of the public service to the community it serves does not have a counterpart in the private sector.

The truth seems to have been long forgotten by this government. The Auditor states that the principle of performance was the foundation for the introduction of employment contracts for CEOs and senior public servants. However, the current contracts, reviewed by the Auditor, show no provision relating to performance.

The Auditor makes the point that the lack of performance provision runs contrary to the purpose of the legislation which introduced performance contracts, which was the Public Sector Management Act 1995. He states:

> If performance standards are unclear or undefined, they cannot form the basis for action terminating stipulated and agreed to legal rights which are articulated in the contracts.

The Auditor states that it has become clear that these days CEOs are dismissed more for unsatisfactory relationships

than unsatisfactory performance. The government is ignoring its constitutional obligation to act in the public interest.

The Auditor-General also finds fault with the lack of adequate formal performance reviews, which means that upon dismissal the principles of natural justice may not have been followed. Procedural safeguards are required to ensure that performance is evaluated in good faith and in a fair, complete and non-discriminatory manner. Under the provisions of current CEO contracts, it may be difficult to demonstrate that the requirements of natural justice have been satisfied. The problem lies with the power of the Premier and/or the minister to determine not only the standards required by a chief executive but also whether the chief executive should be dismissed as a result of an assessment of those standards. At page 29 of volume A.1 the Auditor says:

> There are no statutory or contractual safeguards of any kind that would seek to protect a chief executive, or the public service itself, from precipitous and ill-judged action which would not withstand independent and objective scrutiny.

This lack of safeguards is brought about by the failure of the contract to articulate the performance standards required of a chief executive at the commencement of the contract. Further, the Auditor states that there are risks involved in this type of contract in relation to conflict of duty. At page 30 of volume A.1 the Auditor says:

> The independence of the chief executive, and indeed of all public servants, from party political influence is a fundamental prerequisite for the common law and statutory obligations imposed on the public service.

The Hon. R.R. Roberts interjecting:

The Hon. P. HOLLOWAY: That's right. No wonder he says that this government is corrupt and smells like a sewer.

The Hon. R.I. Lucas: Who said that?

The Hon. P. HOLLOWAY: One of your colleagues, apparently. That is his view. The CEO contract should never imply that duties are owed only to the government. They should not create any potential conflict of interest. Such contracts should recognise the important obligations to parliament and the people. The Auditor also states that five year statutory appointments add to the blurring of public and private duties. It is his opinion that tenure encourages independence. On the face of it, he concludes that the provisions which allow for employment contracts for chief executives allow a government:

> . . . to sack a chief executive for any reason at all at the instigation of the Premier and the minister responsible for the administrative unit.
>
> There is no specific legislative requirement upon the government to ensure that the chief executive receives natural justice or fair treatment.

How in those situations can we expect the top public servants to give independent advice to the government?

The Hon. R.I. Lucas: Are you going to change that?

The Hon. P. HOLLOWAY: The Treasurer will just have to wait and see. If we just look at some of the cases, we can see what has occurred under this government. We have the case of Mr Schilling and we have the case of Mr Ralph, to which I referred earlier. In each of those cases—

An honourable member: Mr Rann?

The Hon. P. HOLLOWAY: Mr Ralph. In each of those cases, the Auditor goes into some detail in his reports and outlines the background for the dismissal of those contracts. In relation to the Ralph case, to which I referred earlier, the Auditor concludes:

> A disturbing feature of the Ralph case was that Mr Ralph was not provided with advice in respect to his performance and the reasons why the minister sought to replace him.

So, with this government you get sacked but you are not given reasons for it, even though you are promoted and receive a bonus six months beforehand. But that is another story. It continues:

> Mr Ralph was not provided with advice with respect to his performance and the reasons why the minister sought to replace him. This is a further example of conflict with the avowed aim of the Public Sector Management Act to achieve accountability in the public sector. The Ralph case is an example of a failure by the portfolio minister to communicate his concern to the chief executive.

The performance of this government in relation to its senior public servants is a disgrace.

Another matter to which I would like to refer briefly relates to food safety. In his report, volume A.4, the Auditor-General refers to the public health administration of food safety and hygiene follow-up—a very important issue for this state given some of the food scares that this state has endured in relation to Garibaldi and Nippy's orange juice. It is a matter that should be of concern to all governments. In his concluding comments, the Auditor-General had this to say:

> Last year's annual audit report indicated that the Health Commission undertook in 1995-96 a comprehensive review of this state's food legislation. That review proposed significant reform to the legislation to provide an updated framework for protecting and enforcing food safety.

That was five years ago. As was the case last year, legislation reform has yet to be effected in consideration of developments still in progress at the national level, directed to achieving national uniformity and enhancement in food legislation and safety standards across Australian states and territories.

So, in spite of all the problems we had with the Garibaldi case and the resulting Coroner's report, and in spite of the fact that this government, through the Health Commission, undertook a review five years ago, nothing has happened. The Auditor continues:

> The previous report also indicated that information relating to local government council authorised officers and the nature of their surveillance work activity was not routinely kept by the South Australian Health Commission to determine whether sufficient resources were being applied in the area of enforcement of proper standards of food hygiene. The South Australian Health Commission has taken action to improve information gathering and quality. The information collected evidence that inspection activity of food businesses in some local government council jurisdictions has been low. In response to this the South Australian Health Commission has written to all councils in June 1999 advising appropriate levels of frequency of inspection for food business.

His final concluding comments are as follows:

> Audit intends to continue to monitor developments in relation to the administration of this important public health matter. The failure to ensure adequate arrangements for inspection and remediation of risk matters associated with food hygiene can result in adverse financial consequences for the government.

I might add that, as we have seen, they can also result in adverse health consequences for the public. That is just a few pages of the many thousands of pages that the Auditor-General has produced for us. They are comments that will assist this Council greatly in the performance of its duties.

There are a number of other matters, of course, which are raised in the report, and I will not go into the detail. As I said before, some of them have been discussed in other motions, and the Auditor-General has also brought down additional reports to his annual report, and motions are listed on the *Notice Paper* to discuss those reports. I note that my col-

league the Hon. Ron Roberts has a report that relates to defamation cases involving ministers, and I am sure that my colleague will have plenty to say about that matter in the future; and, indeed, I might even join him in making some comments about that—yet another example of the falling standards of public behaviour we have seen under this government. However, as there are other motions dealing with those, we will address them at the appropriate time.

Similarly, in relation to electricity, of course, we are all aware of the Auditor-General's comments in relation to the electricity sale process. And, of course, it was as a result of the Auditor-General's supplementary report that we found out that apparently the probity auditor had been replaced: the Treasurer had forgotten to tell this parliament about that. In fact, no probity auditor was in place for a couple of weeks during that process. As a result of the comments of the Auditor-General, fortunately for this state, this government was shamed into action over the sale/lease process and it greatly improved, with the help of the Auditor-General, its surveillance of the sale and lease process, and we await with some interest the release of the Auditor-General's final report on that matter.

Again, there is an item on the Notice Paper in my name in relation to the electricity industry and perhaps, when the Auditor-General's final report comes down, we might have the opportunity to debate that matter in greater detail. As I said, I will be brief, because it is now some nine months since the end of the last financial year, and it will not be all that long before we get the next report from the Auditor-General. I look forward to that report, and I hope that the Auditor-General will continue—and I am sure that he will—to provide exposure of this government's activities in the economy of the same quality as in the past. I support the motion.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

GAMBLING INDUSTRY REGULATION BILL

In committee.

Clause 1.

The Hon. R.I. LUCAS: At the outset of this debate, it would be worthwhile getting some understanding as to how members might like to approach what will obviously take us many hours of debate. From my knowledge of members' positions, I understand that members have been exposed to debate on a series of issues and will probably have an inclination as to how they might vote.

The Hon. T. Crothers: Would you bet on that?

The Hon. R.I. LUCAS: I wouldn't bet on it, but I have an inclination that that might be the case. There is a series of other amendments that have not been top of the mind for members—for example, those regarding a cap on or the banning of poker machines within hotels—so they might not have considered in any great detail their position on those issues and the importance of the amendments.

In recent times, some interest groups have circulated a comprehensive bundle of information to members in an effort to at least put an alternative view to that of the Hon. Mr Xenophon and his supporters regarding the evils of the gambling industry, if I can portray it that way. At least that is some information that will be available for members so that they can try to tackle some of these issues. Based on my knowledge, I am not sure that all members have been through that documentation in any great detail. I intend to do what I can to try to ensure that, before members vote on each clause, they understand what it is we are voting for and what the implications will be.

One of the dilemmas of having this debate in private members' time each Wednesday is maximising members' participation in this debate, because it will be important. I will refer later to that issue in terms of determining a majority position in the chamber. It is important that we at least try to explore the arguments for and against each clause. It would be an abrogation of our parliamentary responsibilities if a particular provision was to scoot through because we as a parliament collectively had not done the work that we should have done. This is a conscience vote and, as with most votes in this chamber, there is the opportunity for one member to represent the views of all members of their party or persuasion and for people to lock in behind that view. There is also the opportunity for party room debate and discussion about that view before it is made known in the parliament.

I am not sure what the process in the Labor party caucus has been regarding this bill. However, speaking from the viewpoint of the government party room, as this is a conscience issue, it really is being left to the individual consciences of the government members in the chamber. Therefore, we are not in a position to know beforehand even the collective views of the nine or 10 government members in this chamber on the individual provisions of the bill. Whilst I am the leader of the government, I am aware of some of my colleagues' views on some of the bigger issues such as the capping issue or the 'Let's ban pokies from hotels' issue.

However, a whole variety of other critical issues such as note acceptors, the speed of the machines, the regulatory framework that we might be talking about for gambling generally rather than just gaming machines in South Australia and the views that are expressed in this legislation on interactive or internet gambling could have—and in some cases will have—significant implications for existing operators, owners and operators and their employees within the hospitality industry in South Australia. I am sure that those members who are present will agree on the importance of the legislation.

The only other point that I want to make at the outset relates to how members want to see this debate proceed. As I said, I see it proceeding over some time, because I suspect, as I have indicated to the Hon. Mr Xenophon, that he will need to be in a position to respond to questions. Given that his not inconsiderable legal team that is backing him on this issue and others is not readily available to him, he will need to take legal counsel and legal advice from his advisers on a relatively regular basis and possibly come back to answer questions. From the viewpoint of one member, I do not intend to proceed to a vote on an issue unless it is entirely clear that the member who is espousing a viewpoint regarding a provision can at least explain the ramifications of the measure put before us. This legislation has been 2½ years in the making, so a considerable amount of time has gone into developing it, and hopefully we will not find it full of holes and problems as we go through committee.

A considerable amount of time has gone into developing the legislation, and hopefully we will find that it is not full of holes and problems as we go through the committee stage. A lot of time and effort has gone into the drafting of the legislation. In fact, I think this is the second major version that has been out for public discussion and consultation and,

as I said, the not inconsiderable legal advice available to the honourable member, including a queens counsel, I am sure has applied the legal eye in some detail over every provision of the legislation. The other point is the issue of how we determine a position. The most recent debate I think we had in this chamber which was of a similar nature was Ann Levy's bill on euthanasia which was—

The Hon. L.H. Davis: In 1997.

The Hon. R.I. LUCAS: Yes, before the election. How soon we forget. It was in 1997 when we had extensive debate and really, for it to make sense and to be fair to members, I think considerable commitment was given by most members and on most occasions we had large numbers of members participating in the debate, listening to the arguments for and against each clause and then voting one way or another.

As I said, when it is a party vote it is pretty easy when you come into the chamber and the bells have rung: generally—although not always in the Liberal Party—you head the way that your colleagues are heading. However, with a conscience vote its not as simple as that. When members hear the bells ringing they might come into the chamber without having been exposed to the various views that have been expressed over any length of time.

I would have thought it might be useful, therefore, for us to work out some rules of engagement. I have discussed this with the Hon. Mr Xenophon and, whilst I oppose most of that which he believes in, I think it is in the interests of having a proper debate on this matter that we at least try to do that. He has agreed that we will not proceed to a vote on anything this evening. So, depending on what other members have to say, perhaps we can start the debate and get as far as some of the provisions of clause 3, which is a definitional clause.

I understand that the Australian Democrats have indicated to the Hon. Mr Xenophon that they do not want to proceed beyond that because they have amendments that they want to move to clause 4 in respect of the gambling impact authority. Of course, other members are not privy to their intentions. If the Democrats are going to participate in the debate this evening, it might be useful if they could provide an early indication of the way they are thinking so that the rest of us can start thinking about what might be coming. I can only say that there will be short tempers on all sides of the Council if members of any persuasion, including myself, file amendments with only 24 hours notice, similar to the Labor Party and Kevin Foley in the past 24 hours and demand—

The Hon. P. Holloway: You dropped the bill in three days.

The Hon. R.I. LUCAS: Yes, but you had been briefed beforehand and asked whether you were happy to continue.

An honourable member interjecting:

The Hon. R.I. LUCAS: Well, we had not been briefed. Anyway, we should not go back over other issues. I am talking about the past 24 hours.

The Hon. P. Holloway: Mr Armitage gave us notice of one hour.

The Hon. R.I. LUCAS: Well you cannot give 24 hours notice unless the numbers are there to do it. So somebody else other than the Labor Party must have supported that, if that was the case. I am saying that I think there will be short tempers if members approach the debate in that way. I think if members do have amendments we ought to have some rule of engagement that reasonable notice is given; and perhaps the Hon. Mr Xenophon can give an undertaking that, if that does not occur, there will be a further delay in terms of considering a particular amendment.

The other suggestion I was going to make for the consideration of the Hon. Mr Xenophon and others relates to the fact that private members time starts at 3:15 on a Wednesday and seems to go until midnight, even though for the rest of the week we cannot do any government business, despite the fact that we knocked off at 5:30 or 4:30 on the first four nights of the parliamentary session. However, it is certainly not the government's intention that we will spend six hours every Wednesday debating gambling industry reform.

We still have 20, 30 or 40 other private members' bills and 20 to 30 pieces of government legislation that in many cases are still untouched after five sitting days of this parliamentary session. It makes sense to me that, in terms of rules of engagement, we could work out that we might have a block of a couple of hours each Wednesday and agree on a time when that might occur so that we could maximise the number of members who participate in the debate.

I acknowledge that honourable members are busy through any parliamentary sitting day and will have other matters to attend to so that they are unable to be in the chamber for the whole of Wednesday waiting for this bill to be brought on. There is the pressure of the other private members' business. It would make some sense to have agreement prior to the Wednesday that we will spend a couple of hours, say between 4 p.m. and 6 p.m. or from 7.30 p.m. to 9.30 p.m., or whatever it might be, so that we maximise the number of members who participate in the debate. It might also make it easier for interested observers of the progress of this bill, of whom there are a few, to know roughly when it will be debated rather than having to sit here from 3 o'clock to midnight every Wednesday.

I take the opportunity under clause 1 to flag some of these issues. I would be interested in the views of the Hon. Mr Xenophon and the Hon. Mr Holloway. Many of us are still waiting for the Hon. Mr Holloway: it may be that he is not in a position or is unwilling to share it with us. He indicated when he spoke on this matter in November that the Australian Labor Party had declared specific clauses of this bill as being subject to party vote, and it would assist the committee debate if he listed those which the Labor Party has declared to be subject to party vote and which are subject to conscience vote. I am happy to declare that at this stage everything is up for grabs: from the viewpoint of government members, it is being treated as a conscience vote issue. If there were issues which looked like getting up and which were going to cut a hole in the state budget, the government party room might well convene to express a view in terms of a government position. As it is the Liberal Party, a government position does not mean, a la Terry Cameron or Trevor Crothers, that if members do not support it they are out of the party. We do accept the notion of conscience votes for members even if there is a government declared position.

I would reserve that let-out provision at the outset by saying that at this stage we are looking at things as a conscience vote to see how things go. We have a view that some things are unlikely to be supported by a majority of members. If the Labor Party, for example, locked in and said, 'We will support a provision that is going to significantly impact on the state budget in some way', the government party room may have to reconvene and consider its position. We would not want a set of circumstances where a strategic position was adopted that would place the government in a very difficult budget position as a warm up to the next state election.

The Hon. Nick Xenophon: We don't often have a conscience vote.

The Hon. R.I. LUCAS: I cannot speak on behalf of the government party. All I am flagging is that at this stage we are treating these issues as a conscience vote. However, if we saw something that was going to significantly impact on the state budget, we would reserve the right to have a discussion about that in the party room to see whether or not there would be a government position on it.

Even when the government takes a position, occasionally, our members have in the past—and I am sure they will in the future if they do not agree—expressed a different view. So, they might not accept the government's position on that particular provision. I am interested in hearing from the Hon. Mr Xenophon and, perhaps, the Hon. Mr Holloway and, if possible, the Hon. Mr Elliott to obtain their views about the rules of engagement that I have outlined.

The Hon. P. HOLLOWAY: By and large, I think the opposition will support the suggested rules of engagement put forward by the leader of the government. I think we should deal with one or two clauses of this bill each time we discuss it. We are fortunate in one sense in that most of the 58 clauses of this bill are grouped together and quite separate in their impact. So, they can be debated without their necessarily having much impact on the other clauses. I think it should be reasonably easy for us to go methodically through the bill dealing with each clause as it arises.

Regarding the Labor Party's view, as I indicated earlier during the second reading debate, those matters that relate to either an extension of or a reduction in gambling are deemed to be a conscience vote. Specifically in relation to this bill, clauses 18, 33, 37 and 48 would fit into that category. Clause 18 relates to internet gambling, clause 33 relates to the prohibition of machines which allow high stakes, clause 37 relates to the removal of gaming machines from hotels in five years, and clause 48 also relates to the prohibition of machines that allow high stakes in the casino.

The Hon. M.J. Elliott: They are non-conscience votes?

The Hon. P. HOLLOWAY: No, obviously they are conscience issues. The Labor Party has a position on all the other clauses. In response to the Treasurer's comment, I do not believe that the few that we will support would have any significant impact on the budget. To sum up, we believe that we should proceed steadily but slowly through this bill and arrange a formula so that all members can be informed and aware of which issue they are voting on. I think that should be reasonably easy as the clauses in this bill are fairly distinct.

The Hon. NICK XENOPHON: By and large, I am grateful for the Treasurer's comments regarding the rules of engagement. I assure the Treasurer that I do not have a not inconsiderable legal team assisting me on this bill. I have relied on the very capable advice of parliamentary counsel and their drafting skills. Unfortunately, the legal team that assists me from time to time is preoccupied with other matters at the moment.

I take issue with the Treasurer impugning that, in some way, I am talking about the evils of gambling. That terminology has been used by the Prime Minister. I see this primarily as an issue for communities to have a real say about the role of gambling in their community and to do something about the level of problem gambling. The Treasurer's approach is simply to put money into the Gamblers Rehabilitation Fund.

Of course, that is important—and, again, I acknowledge the role of the industry (the hotels and clubs) in this so-called voluntary fund: it is still useful for the highly regarded Break Even service—but the philosophy that appears to permeate the Treasurer's thinking on this—that you should have an ambulance at the base of the cliff rather than a fence at the top of the cliff to prevent people from falling over the edge with respect to gambling products on offer—I do not find necessarily to be the best approach.

I am grateful to the Treasurer for setting out what he considers ought to be the rules of engagement. I would like to obtain an undertaking from the Treasurer that, at the very least several days before each Wednesday, we can be given some idea of when the parties want to debate the bill for the very reason the Treasurer has pointed out: that the industry is obviously interested and others are interested in the bill. I would find that useful.

I acknowledge that we will not get far this evening. We will get to clause 3. I have had discussions with the Hon. Mike Elliott regarding clause 4 which deals with the Gambling Impact Authority. The Democrats have spoken out on a number of occasions about the importance of having a gambling commissioner to look at all gambling codes. I am more than pleased to get input from the Hon. Mike Elliott and the other Democrats on this issue.

I understand that it will be a slow and tortuous process this evening. Will the Treasurer indicate whether, at this stage, the government proposes to have in place a regulatory framework for the gambling industry as a whole? Further, given that the Victorian and New South Wales governments with their gambling bills have dealt, to a varying extent, with a degree of gambling industry regulation and methods of harm minimisation, are there any plans on the part of the government to introduce such legislation? I look forward to the Treasurer's response regarding those matters.

The Hon. M.J. ELLIOTT: First, I will respond to the general proposition that there might be some regular debate on this private member's bill. I am of the view that when we look at private members' business generally there are motions which seek to refer matters to select committees or private members' bills that probably deserve to be given this sort of treatment. Perhaps if some private members' bills and other significant motions were given more treatment earlier in the session we would not have the backlog that is complained about at the end of the session. In many cases, the backlog happens because a private member's bill having been moved there is often a considerable wait before the government officially responds to it.

The Hon. R.I. Lucas: It's always the government.

The Hon. M.J. ELLIOTT: I think that is a statement of fact. I endorse the proposal that the Treasurer puts and suggest that perhaps it should be considered in relation to a few other matters as well. It would probably mean not only that private members' business would be handled in a more orderly fashion but also that it would avoid that build-up as we get towards the end of session. Having said that, taking into account that conscience will be exercised on a fair degree of this bill, at this stage the debate looks like it could be very long and tortuous. I note that the government recognised those sort of difficulties with the prostitution issue and then set about coming up with four different bills.

The Hon. R.I. Lucas: We can come up with four on this if you like.

The Hon. M.J. ELLIOTT: No, I was not going to suggest that. I hope that, fairly quickly, one of the prostitution bills might stand out as being closest to what is most nearly acceptable for a majority, and that might then become the basis of further debate. I am not suggesting that, in this instance, we should have four bills, but I do hope that, very

early in the debate, as many members as possible can spell out those bits of the bill, as it now stands, which they find attractive and those which they do not, and indeed what sort of changes they might like to see; and that the Hon. Mr Xenophon, and potentially some other members of this place who are generally supportive of what the honourable member is trying to achieve, might sit down and try to work out what has a chance of getting up and what has not.

I think that perhaps we might be able to make the debate a little easier in this place. I do not know how the Hon. Mr Xenophon will react to that, but, for instance, I have a fair idea about what the three Democrats will and will not agree to, and there is not complete agreement between us. Certainly I can give some advice to the Hon. Mr Xenophon as to those components of his bill that are likely to enjoy support, albeit perhaps in an amended form in some cases, and those bits that are unlikely to succeed. While we are about to go into a clause by clause analysis, the second reading stage having finished, I think it would be valuable if those members who have not given some indication as to the general shape of the bill that they would find acceptable did so very early in committee.

The Hon. R.I. LUCAS: In terms of rules of engagement, there seems to be some general consensus in terms of trying to agree, prior to each Wednesday, a rough time that we might proceed with debate for a period of time each Wednesday without extending it into debates about other issues. There appears to be enough common ground from four of my members to whom I have spoken at least to endeavour to establish a time—we will see how we go. It may be that there will be a goal to try to cover a section for that particular Wednesday, and if we finish within the allotted time we will not go on to the next section.

I suspect it is more likely to be the case that we might have a goal to cover one particular section, which might relate to the impact authority and fund, or whatever it might be. We might not get through it that particular week and the Hon. Mr Xenophon might or might not have to take it away and rethink a particular provision. I think it would be worth our while, before next Wednesday, trying to work out an appropriate time so that members can be advised that we intend, for example, to have a go at the definition clause, or start the debate on the impact authority, or whatever, during a certain section of next Wednesday.

The Hon. T. Crothers: Can we have that agreement included in the *Notice Paper*?

The Hon. R.I. LUCAS: I do not think we can do it in the *Notice Paper*—that might be stretching a friendship. But in the context of a gentlepersons' agreement between a number of people to try to expedite the matters, we will just see how things might proceed.

The only other point I would make in response to the comments of the Hon. Mr Xenophon is that one of the rules of engagement the honourable member will need to understand in relation to this bill is that he is the mover of this bill and therefore the questions are directed to him. He does not therefore direct questions. He can do so, but this is not a forum in which he can stand up and say that he now looks forward to the Treasurer's response, the Attorney's response or indeed anyone's response: it is a question of free engagement in this debate. It is the honourable member's bill and, obviously, he will be asked a series of questions in relation to his drafting and provisions. I am sure that members will enter into it in reasonable spirit. I do not intend to respond to all the questions the honourable member has directed; I just outline that. In relation to the honourable member's first question, I think it would be useful for me to at least share my view.

There is no concluded government view yet, but I think there is no doubt that, should the government be either wholly or partly successful in relation to the sale of the TAB and the Lotteries Commission, there is an inevitability about there being some sort of supervisory authority in relation to gambling in South Australia. You would have a privately operated TAB, and perhaps a privately operated Lotteries Commission in South Australia, together with a privately operated casino and privately operated hotels and clubs, obviously, in relation to gaming and—

The Hon. T.G. Roberts: SP bookmakers will be the moderating force in that regard.

The Hon. R.I. LUCAS: They could be; I do not know. The Hon. Mr Roberts knows a few, I am told, from the Somerset and other places in the South-East. He can illuminate for the benefit of the committee the operations of SP bookmakers.

The Hon. T.G. Roberts: That is why the TAB and the rest of it was formed—to eliminate SP bookmakers.

The Hon. R.I. LUCAS: Is that right? I bow to the honourable member's greater expertise in the area of SP bookmaking. I will not inquire as to how he has that knowledge. In relation to the first issue, in those circumstances there is an inevitability in relation to it. If, for example, the parliament were not to agree at least to the sale of the TAB—and if we had both the TAB and Lotteries Commission still taxpayer owned and funded and government owned and operated—government members would need to think through the appropriate shape and nature of the regulatory environment that might apply in those circumstances. I can indicate that I, on behalf of the government and of officers who work for me, have been working some time since last year on what might be the appropriate regulatory framework in South Australia in terms of gambling. We have been interested that some of the thinking of the Productivity Commission has not been significantly different from ours in some areas in terms of both the licensing enforcement provisions and the structure that the Productivity Commission had flagged in its report.

There are some differences in our initial thinking and that of the Productivity Commission, and that comes down to some areas of detail the Productivity Commissioner either did not have to or had not considered, that is, when one is looking at gambling regulation it is not just the big ticket items that they have addressed, but there are issues, not necessarily of SP bookmakers, in terms of bookmaker regulation.

When one is looking at a gambling authority they will be the sorts of issues that will hold up the debate even with the amendments that the Hon. Mr Elliott might bring back to the committee. I know how much time we have spent trying to work out an appropriate framework with which governments possibly might govern overall gambling in South Australia. With the best will in the world it is very difficult for any individual group of members and others to think through all the issues to the degree that will be required if we are to have a comprehensive and satisfactory regulatory framework.

I know what time went into the electricity industry in terms of its regulatory framework vis-a-vis the considerable hours, expertise and time that consultants, public servants and others put into shaping our regulatory framework for the electricity industry. The gambling industry is equally as challenging as was the regulatory framework we were talking about for the electricity industry. It is therefore inconceivable

that anybody with the best will in the world will be able to get this right at the first go.

If we are to try to resolve it in this bill, it will take us some time. It may well be that the government returns to the debate and the consideration of the Democrat amendments by saying that it is intent on looking at something along these lines. The shape and nature of that will, in part, be dependent, but not completely, upon decisions the parliament takes on TAB and lotteries. At this stage I might recommend to government members that we do not go down a path of supporting an authority such as this at this stage until we have had a chance to bring something back. It may well be that we get to the position where the government says that it is prepared to bring something back to the parliament. I cannot give that commitment at this stage, because there is not yet a concluded view from the government on this issue.

The Hon. M.J. ELLIOTT: I want to pick up an issue covered by the Treasurer in relation to some form of gaming regulating authority. The Democrat view very strongly is that that is something we would want in place before there was any consideration of sale. We have a view that, regardless of public or private ownership of casinos, TABs, lotteries, etc., there really should be some form of supervisory body, something like that proposed within this legislation.

Certainly, the Democrats will not be seeking to facilitate discussion on legislation that will change ownership of these other gambling bodies until we feel that that issue has been adequately addressed. Frankly, I think that it is unacceptable to try to put a supervisory body in place after you have sold something off, because the purchasing interests will then want to put on pressure in terms of what does and does not happen, whereas, if they purchase knowing what the body will be beforehand, they do not have a legitimate complaint.

I am not pre-empting what we would or would not do in relation to sale but, frankly, even to start considering a sale process without addressing the regulation issue first is putting the cart before the horse. The Democrats are prepared to engage in the privatisation debate, but we want to do it after the debate about the regulation of gambling in the state.

The Hon. L.H. DAVIS: It is common when debating both government and private members' legislation to use clause 1 as a vehicle to ask general questions about the intent and consequences of legislation, and that is what I intend to do. The Hon. Nick Xenophon is attempting to do something that, as far as I understand, has not been done anywhere in the world, and that is to remove totally poker machines from hotels. That is the nub of this legislation. Is he aware of any state or country in the world where such legislation has been introduced successfully?

The Hon. NICK XENOPHON: I am aware that there have been moves in South Carolina in the United States to remove video poker machines. A ruling in that state's Supreme Court several months ago effectively ordered that those machines be removed by 1 June. I am not certain what the legislature of South Carolina has done in recent times, although I will be briefed on that by Dr Frank Quinn, who treats people with gambling problems in South Carolina and Columbia, the state capital. I will see him next week when he comes to Adelaide for a gambling conference.

I have received information that in Greece there were gaming machines in a number of bars and hotels, and those machines were removed. I am aware of moves in South Dakota and Washington State to have that issue debated at the next election by way of referendum, and I believe that it is in the South Dakota ballot. I cannot assist the honourable member more than that.

However, the honourable member has premised his question on the basis that this is the entire nub of the bill: it is certainly what would be regarded as the most radical clause. I acknowledge that there does not appear to be one member in this chamber who has indicated support for the bill in the number of members who have contributed to it. It would be safe to say that, on the basis of the lack of support on the floor, that clause would have great difficulty in passing, given members' indications of lack of support.

I still think it important that we have a debate as to the extent to which gaming machines are available in the community. I note the Productivity Commission's survey of South Australians in terms of attitudes to gambling. Something like 76 per cent of South Australians would like to see a reduction in the number of machines, and approximately 66 per cent would like to see a significant reduction in machines. Those figures are available in the Productivity Commission report: that is my broad recollection of those figures.

In terms of its being the nub of the bill, I would say that it is certainly the most radical clause in the bill. The bill contains a number of other measures, some quite incremental, some not that controversial, and some that have been effectively passed by the New South Wales government and supported by the Victorian government in recent times. Clearly, they would be harm minimisation strategies, and I would like to think those measures could be closely looked at by all members, including the Hon. Legh Davis.

The Hon. L.H. DAVIS: I chose the word generously in describing it as 'the nub of the bill'. If this proposal was supported by a majority in this House and in another place it would effectively remove an estimated $175 million from state revenue in 1999-2000 budget terms. I would remind the Hon. Nick Xenophon that, in the 1999-2000 budget, gambling taxes accounted for $366 million and an estimated $201.5 million was estimated to be received from gaming machines. About 12 per cent of that $201.5 million comes from gaming machines in clubs which under this proposal is quarantined because the Hon. Nick Xenophon is supportive of poker machines in clubs—as we now know. That would mean that in 1999-2000 budget terms $175 million would be lost in state revenue. That represents a cool 9 per cent of state revenue.

In framing this proposal the Hon. Nick Xenophon obviously took into consideration the budgetary implications of the measure—as any government would have to do if it was introducing legislation which had fiscal implications. Can he advise the House how he intends to cover $175 million shortfall, which will be the impact of this legislation if passed in a four or five year period. Of course, the budgetary impact would take effect progressively over that five year period given that it is his intention to phase out all poker machines within hotels within a five year period.

The Hon. NICK XENOPHON: I think I have already set out that it seems very clear that this proposal has little or no support in this place—or indeed in the other place. In terms of revenue, I refer again to the Productivity Commission's report and studies that have been carried out in the United States, and we have Professor Robert Goodman, the author of *The Luck Business* who makes the point, as does the Productivity Commission, about the regressive nature of gambling taxes. That is clearly an area of significant concern to me. The impact of poker machines and problem gambling

on the community must be a driving consideration in terms of the motivation behind this particular clause.

I understand that the Hon. Legh Davis wants to focus on this important clause which I have acknowledged appears to have little or no support in this place, but I think it is important we have that debate. The replacement of revenue is a vexed issue and it is very important, but my view is that there must be less regressive and less harmful forms of taxation when considering the impact on the community. The Productivity Commission makes it clear that between five and 10 people are affected by each problem gambler. Using the lower end of the Productivity Commission's figures, there are some 290 000 significant problem gamblers nationally and, using the lower end of the figure in terms of the people affected, something like 10 per cent of the Australian population is in some way worse off because of the gambling bug directly or indirectly. Of those problem gamblers, the commission has indicated that something in the order of 65 to 80 per cent of problem gamblers have a problem because of poker machines.

Clearly, the government has become dependent on that level of gambling revenue. I can understand that, and I can also understand the difficulties that the states have had over recent years in terms of worsening commonwealth-state fiscal relations; that the states have lost a number of other forms of taxation over the years. I think that that clearly points to broader issues of reform of commonwealth-state fiscal relations. Clearly, the commonwealth has not been generous in terms of the ability of states to collect other forms of revenue that are not as regressive as this one. The question ought to be couched in the following terms: can we as a community afford to continue relying so heavily on gambling revenue given what appears to be a growing and, in many cases, quite severe human toll?

The Hon. Legh Davis makes the point that I am a supporter of poker machines in clubs. It is not so much a question of being a supporter: it is a question of choosing a model of accessibility. There appears to be a fair degree of community sympathy that, if we are to have gaming machines anywhere, it is preferable to have them, with a degree of limited access—much more limited than the access that we have now—in clubs rather than in hotels—in other words, in a private for profit gambling environment in clubs, with very strict requirements to ensure that those profits are put back into the community. But whether someone is a problem gambler in a club, a hotel or a casino, I regard all those cases with equal seriousness.

In terms of the issue of accessibility, the Productivity Commission makes it very clear that the more accessible form of gambling is gaming machines. The honourable member may have heard a few days ago, when I referred to the commission's findings, that something like 42.3 per cent of gaming machine losses are derived from problem gamblers, and something like 33 per cent of gambling losses come from severe problem gamblers. These are figures about which we ought to be concerned. I would like to invite the Hon. Legh Davis to join in a constructive debate as to how we can reduce the dependence of the state on those people who clearly have quite significant problems. If it means a reduction in revenue then so be it, because it seems that the negative externalities of gambling taxes that relate to the impact on a community of crime, the impact on small businesses and the impact on families are all issues that ought to be considered in the context of any debate.

In his book *The Luck Business*, Professor Robert Goodman talks at length about negative externalities in the studies that he carried out as part of his survey of the gambling industry. He says that there are quite significant externalities, with some exceptions—for instance, Las Vegas, where you have tourists coming into a community spending their money and then going. In that case there are clearly positive externalities for the gambling industry. But the McDonaldisation of gambling, as I think Professor Goodman calls it, where you have the corner shop gambling or convenience gambling, clearly does lead to quite significant negative economic factors.

The Hon. L.H. DAVIS: With respect, there was a lot of useful information there but no answer to the question. Can I put it this way to the Hon. Nick Xenophon, in very simple terms: if a family suffered a 9 per cent cut in income, they would have to sit down and work out how to increase their income or how to reduce their expenditure, or a combination of both, to meet that circumstance. In proposing the legislation that is now before us—and I repeat, the nub of it is a $175 million reduction in expenditure—just what proposals did the Hon. Nick Xenophon have in mind in terms of accommodating the budget deficit that would be created? Presumably, that did occur to him. Can he tell the chamber which taxes he contemplated would have to be raised, or introduced, and/or what expenditures would have to be slashed to accommodate this $175 million shortfall in the state budget?

The Hon. NICK XENOPHON: This is turning into a bit of a circular argument. I suggest that the Hon. Legh Davis—

The Hon. L.H. Davis interjecting:

The Hon. NICK XENOPHON: I will just ignore the nonsense from the Hon. Legh Davis.

The Hon. L.H. Davis interjecting:

The Hon. NICK XENOPHON: I have been in the real world for quite a few years, running a practice—

The Hon. L.H. Davis interjecting:

The Hon. NICK XENOPHON: I believe I have already answered the question. I have asked whether, as a community, we can afford to rely—

The Hon. L.H. Davis interjecting:

The Hon. NICK XENOPHON: I am not going to be baited by the Hon. Legh Davis. He is being mischievous as usual on this issue. The fact is that it is a very significant component of government revenue. A whole range of issues ought to be considered. If this government and other state governments want to tackle the question of problem gambling, one of the seminal issues that needs to be dealt with is the question of commonwealth-state fiscal relations. At the moment with the grants commission, my understanding is that there is no incentive for the states to rely less on gambling revenue than they do presently, and I understand that the Western Australian government has been under some pressure from the grants commission in an indirect sense to consider the introduction of poker machines.

In answer to the Hon. Legh Davis's question, I do not propose getting into a debate as to which taxes ought to be increased, decreased or adjusted, but there ought to be a broader philosophical and practical debate about whether as a community we ought to be relying so heavily on gambling taxes where such a significant proportion of gambling taxes, particularly in the case of poker machines—some 42.3 per cent of losses—come off the backs of significant problem gamblers, and as to whether that is acceptable in a civil society and community.

Given the negative externalities of the gambling industry, it costs us quite significantly in other areas. For instance, we have now a new class of people going before the courts and being prosecuted, convicted, and some being incarcerated as a result of gambling related fraud, embezzlement and other criminal activity. If we are to have a sensible debate about this, there ought to be some form of analysis as to the true cost of gambling to the community which this government has failed to undertake.

I have been calling on the State Government for the last two and a half years to fund an independent economic impact assessment of the impact of the poker machine industry and the gambling machine industry in general. That sort of exercise would at least be useful in determining what the true costs of gambling are. A cost benefit analysis has been touched on by the productivity commission, with figures ranging from the negative to the positive, although the benefits relate to a large extent to the enjoyment that gamblers can get in terms of the consumer surplus, and that has been analysed at some length by the productivity commission. To say that it is the nub of the bill is not the case. Certainly it is the most radical and most controversial proposal in the bill.

The Hon. L.H. Davis interjecting:

The Hon. NICK XENOPHON: Look, we can go on all night about this, and I am happy to do so. The fact is that it is an important issue. There ought to be a debate in the community. The debate ought to be not so much about the $175 million that he is talking about but rather about whether it is reasonable or acceptable that such a significant proportion of gambling revenue now comes off the backs of the vulnerable and addicted. We now have via the productivity commission a comprehensive, independent report which says that 42.3 per cent of gambling losses from poker machines come from problem gamblers. That is a debate we ought to consider. In a civil society, that ought to be the nub of the debate.

I also concede, on the basis of what members have said and the private discussions I have had with honourable members, that it seems that any move to wind back the number of machines has minimal, if not zero, support in this House. Whilst the Hon. Legh Davis is getting into a lather about this, it seems that honourable members are not inclined to support that cause, but I would like to think that they could support a whole range of other clauses which would go some way to reducing the harm caused by problem gambling and which in turn would go some way to providing a degree of informed choice, an issue that the productivity commission touches on quite significantly, so that those who do decide to gamble will at least be able to be somewhat more informed as consumers of gambling products. If that leads to a reduction in the number of people getting hurt, that has to be a good thing.

The Hon. L.H. DAVIS: Leading up to the 1997 state election, the No Pokies Organisation ran an advertisement headed, 'We don't want to run the state; we're just trying to right a wrong.' It states:

> Today $1 million will be lost in pubs and clubs across SA on pokies. This election don't gamble your vote away. Vote 1 No Pokies for the Upper House.

The Hon. R.I. Lucas interjecting:

The Hon. L.H. DAVIS: No, it didn't say that. I will just repeat that. The advertisement was headed, 'We don't want to run the state; we're just trying to right a wrong.' We have seen that the No Pokies Organisation is not averse to trying to run the state, but that is another debate for another time. The advertisement would suggest that 'no pokies' actually meant what it said—that it would get rid of pokies in clubs and pubs.

The Hon. R.I. Lucas: Was that an advertisement?

The Hon. L.H. DAVIS: That was in an advertisement. Indeed, on election day, the how to vote card for the No Pokies Organisation—it is not a party, it is an organisation; it makes a difference—had a big circle with the word 'pokies' in the middle with a cross through it, and the caption 'Vote 1 No Pokies for the Legislative Council', again a clear implication that it was against poker machines, full stop. In fact, if one looks at the phrase 'no pokies', one would be entitled to think 'no pokies' means what it says—no pokies. As I mentioned in my second reading speech the Treasurer of South Australia, the Hon. Robert Lucas, who is usually particularly well informed and who has a very retentive memory, was unaware of the fact that the No Pokies Organisation was quite partial to retaining pokies in clubs but not in pubs.

I say to the Hon. Nick Xenophon: surely the argument that he is putting to the committee in this bill is about the social and economic ills created by poker machines and trying to do something about them. I think I have encapsulated that accurately. The argument is not about how the profits are distributed. Yet he uses the argument about how the profits are distributed to justify retaining pokies in clubs, saying that the profits out of pokies in clubs are used for good purposes, whereas he argues that the profits derived from pokies in pubs are used for not so good purposes. He introduces the notion that some of the profits even go to multi-nationals overseas or big corporate groups interstate.

In other words, what I am putting here to the committee is that the Hon. Nick Xenophon is not being true to his own standard. He is supposedly arguing that pokies are inherently bad, that they have a social and economic impact. Therefore, it follows from that that, irrespective of wherever they are located, they are bad, and he has given testimony to that fact by the very slogan 'no pokies', which he held out in the election.

People who voted for him really believed they were voting for no pokies, when he was quite clearly misleading them in that advertisement which I will quote again:

> Today $1 million will be lost in pubs and clubs across SA on pokies.

Apart from one brief reference buried in a very small advertisement (which the Treasurer did not see and I certainly did not see until I went back through the clippings in the Parliamentary Library), can the Hon. Nick Xenophon explain how anyone was made aware during the campaign of the fact that he was favourably disposed to pokies in clubs?

The Hon. NICK XENOPHON: I thank the Hon. Legh Davis for his mischievous question.

The Hon. T. Crothers interjecting:

The Hon. NICK XENOPHON: That is right. I do not think the Hon. Legh Davis and his party should get into a debate on truth in advertising at the last state election. That is dangerous territory indeed for the Hon. Legh Davis to be in.

The Hon. L.H. Davis interjecting:

The Hon. NICK XENOPHON: If the Hon. Legh Davis will keep quiet for a minute and restrain his enthusiasm I can say that my position is that the poker machine as a product has caused a significant degree of social and economic

dislocation in the community. The fewer poker machines the better. When I got into this place I naively thought that if there was to be a model of availability of gaming machines in the community in the longer term a potential compromise was to simply have the machines in clubs rather than hotels. Having said that, I am aware that there is virtually non-existent support for that in this place amongst members and it seems, on the basis of indications of support, or lack of support, that it is doomed, but I still think that there is a valid debate.

It is a pity that the Hon. Legh Davis did not follow the campaign more closely. The only television advertisement that the campaign could afford—very cheaply made in terms of production values—a 15 second advertisement, did talk about taking poker machines out of hotels. That featured Mr Bob Moran, a person whom the Hon. Legh Davis decided to defame under the protection of parliamentary privilege—

The Hon. L.H. Davis: Along with the Hon. Sandra Kanck and the Hon. Terry Roberts.

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

The Hon. NICK XENOPHON: The Hon. Legh Davis is being quite defensive. However, I understand that—

The Hon. L.H. Davis interjecting:

The ACTING CHAIRMAN: Order!

The Hon. NICK XENOPHON: I understand that Mr Bob Moran did—

The Hon. L.H. Davis interjecting:

The ACTING CHAIRMAN: Order! The Hon. Mr Davis will cease interjecting.

The Hon. NICK XENOPHON: I am pleased that Mr Bob Moran did have an opportunity to have a discussion, as I understand it, with the Hon. Legh Davis following his remarks and, hopefully, it was a constructive discussion. It seems clear that the Hon. Legh Davis wants to be mischievous and destructive about this. He does not appear to be dealing with the issues in point in relation to the bill, but I am more than happy to continue to entertain him.

The Hon. L.H. DAVIS: I am just a bit startled to hear that last comment. I have quoted factually from the advertisement and the honourable member takes objection to that. I have quoted factually from the budget and asked the honourable member about revenue expenditure measures and he has objected to that. I will perhaps ask the honourable member something else that is factual. That is, in trying to research this and trying to understand exactly where the No Pokies organisation was coming from, I went to the library to look at the media releases from the No Pokies organisation from the election campaign through to the present time. I am talking about the speech that I made in this place about 4½ months ago, on 17 November 1999. I went to the library and I said: 'Could you find some press releases from the Hon. Nick Xenophon on gambling issues in South Australia because I want to research them for my speech?'

That is a pretty reasonable proposition. I can say that, if I wanted to find something out about the Australian Democrats, what their position has been, the Labor Party, or indeed the government, I have never had any difficulty in obtaining the press releases from the Australian Democrats, the Labor Party or the government. That is an understanding that one has in this place. The Hon. Nick Xenophon in this place, as I have said, has set the morality bar very high. He insists on accountability and transparency. He talks about freedom of information. In fact, he is so free with information that I understand he actually hands over memos from the Hon. Robert Lucas to his adviser, Mr Danny Price, who is retained by the New South Wales government.

Therefore, with that sort of expectation, and knowing how transparent the Hon. Nick Xenophon expected everyone else to be, I thought that it would be easy to get this information from the library. The library said, 'We do not have anything apart from one press release on ETSA back in December 1998'. I said to them, 'Could you ring the Hon. Nick Xenophon? He is a new member who was elected in November 1997 and perhaps he does not understand the common courtesy that exists whereby media releases can be made available on request'. In fact, I think that government ministers, generally speaking, and other parties, put those releases into the library.

The Hon. Mr Xenophon was contacted and told that someone was seeking this information. He was not told who it was, and nothing happened. The library rang again and was told that the information would not be made available. As I said in my speech in November, it was hardly an example of transparency and accountability given the moral high bar that the Hon. Nick Xenophon sets for everybody else.

In fact, I thought perhaps that after that he may have had a change of heart, that perhaps he understood that, if he were setting the bar so high for everyone else, he should be able to jump it himself just occasionally. So tonight I went back to the Parliamentary Library to find out exactly what the position was. I was advised that there is a press release dated 8 December 1998 on ETSA and then there was that much fabled, highly popular press release, dated 19 August 1999 headed 'Is the state government guided by Con the Fruiterer philosophy?' There is the fabled media release which ended up not so much with Con the Fruiterer but the rough end of the pineapple for the Hon. Nick Xenophon, and I refer to the famous case of the postcodes. I am just wondering whether the Hon. Nick Xenophon, to assist honourable members in the committee stage of this bill, would care to make available the press releases through the library as all other members do.

The Hon. NICK XENOPHON: I thank the honourable Mr Davis. In terms of pineapples, it seems they made a comeback in the other place earlier today with the member for Ross-Smith. In relation to the morality bar, I presume that the Hon. Legh Davis is referring to a motion before the Council to have parliamentary travel reports published on the internet. I really see quite a clear distinction in respect of something that involves expenditure of public moneys.

The Hon. L.H. Davis interjecting:

The Hon. NICK XENOPHON: I had a convivial lunch with the Hon. Legh Davis a couple of weeks ago and, if he had simply asked me for them, I would have provided them.

An honourable member: In the same room?

The Hon. NICK XENOPHON: Yes, in the same room. It was a very convivial lunch for me, although I do not know about the Hon. Legh Davis. I am happy to provide those details. I have a website that is partly up and running and hopefully will be completely up and running within two or three weeks. There are quite a few media releases on that website, and as a matter of course we are putting them on now. I asked the website designer to ensure that that is the case so that members of the public and not simply members of the Parliamentary Library can have access to the website. I think that it is an efficient way of dealing with things. The Hon. Legh Davis makes a valid point. I did not tell the library that I was not going to provide them. I do not know what happened but I will look into it.

An honourable member interjecting:

The Hon. NICK XENOPHON: I think the Hon. Legh Davis should be careful.

An honourable member interjecting:

The Hon. NICK XENOPHON: I will check what has happened. If the Hon. Legh Davis had cared to ask me during that convivial lunch we had a couple of weeks ago, I would have been more than happy to copy them for him. If that is the request he is making, I cannot see any difficulty with it. In any event, it does not seem to be the point in relation to the issues relating to the bill. I have an idea now as to the gist of Mr Davis's contribution on the bill, and I am sure it will be a character building exercise for both of us.

The Hon. L.H. DAVIS: One of the areas for which the Hon. Nick Xenophon cannot be blamed and which fascinates me about this measure is that, when we talk about gambling in Australia, we always talk in terms of gambling losses. I raised this matter in the second reading stage. The Hon. Nick Xenophon may choose to go to the theatre for the evening and spend $100 seeing a musical. A friend of his may choose to go to dinner with his partner and spend $100. Another person may choose to go for a bed and breakfast experience, and that may be $100 for accommodation. Someone else may choose to spend $100 at the Casino on poker machines or roulette or whatever it may be. If you asked each of those people what they had done, they would say, 'We have entertained ourselves.' I think that is how they would describe it: they had had some entertainment, some pleasure or some leisure, however it might be described.

One problem in this world which is always difficult to reconcile is that the media likes to simplify things. So, if I, or one of Mr Xenophon's friends, choose to spend $100 at the Casino that is designated as a loss, but if Mr Xenophon spends $100 at a musical it is not designated as a loss. But, to the economists, whether they be the Hon. Robert Lucas, the Hon. Legh Davis or the real economists who crunch the numbers, it is all a form of economic activity that is making a contribution, whether it is through the consumption of goods or the use of services.

I am interested to know Mr Xenophon's view on this, because he talks about gambling losses. In that election advertisement he said that $1 million will be lost in pubs and clubs today. That is not a true statement in the sense that, if one of your friends had lost $100 on the pokies, he or she might have made that deliberate decision, but they might not regard it as a loss so much as a leisure opportunity. It is a form of recreation they might have chosen deliberately to undertake, limiting themselves to a $100 loss, in lieu of a night at the theatre, a night at dinner or a night in a bed and breakfast cottage.

The Hon. NICK XENOPHON: That goes to the nub of one of the great philosophical issues in terms of the impact of gambling on the community, how it is viewed and the like. The media reports gambling expenditure as a loss, in a sense, and I think that is quite reasonable, given the Productivity Commission report, which refers to the fact that we are not dealing with an ordinary industry. In submissions to the Productivity Commission some of the gambling industry said, 'This is just another form of business; it is a bit like going to the theatre or a restaurant.' But the Productivity Commission takes the view that it is a different industry, for a number of reasons. First, in order to have a legitimate gambling business you need to obtain a licence from the state, so there is a licensing system in place. In some respects there is a franchise, and in some cases some would say it is an exclusive franchise for some sections of the community, to have a particular form of gambling. The Productivity Commission makes the point that, because there is a significant down side for a minority of individuals but with quite a significant flow-through, ripple effect, the industry needs to be treated differently.

Now that we know as a result of the commission's own extensive surveys that a significant proportion of gambling losses or gambling expenditure—or 'overall spend' if the Hon. Legh Davis prefers that term—comes off the backs of significant problem gamblers, that factor ought to be taken into consideration, but it needs to be treated quite differently. Given the enormous impact that problem gambling can have on many members of the community (as I said, the Productivity Commission using the lower end of its figures says that about 1.7 million or 1.8 million Australians are, in some way, worse off because of the gambling bug), that is a fact that ought to be considered.

I acknowledge that what the Hon. Legh Davis has put clearly is one of the arguments. I would like to think that members of the community who spend a day or a night at the casino and can afford to lose $100—it is a drop in the bucket for them in terms of their income or it is a choice they have made—cannot be categorised as problem gamblers under any of the criteria set out by the commission, which relies on the SOGS survey. Clearly, that is one issue. If Kerry Packer lost $20 000, $100 000 or even $1 million on poker machines, I do not think anyone could reasonably categorise him as a problem gambler, because that would be just a drop in the bucket of his overall assets and income.

However, for a significant number of Australians gambling has become a problem for them, their dependants and their immediate family and, with the flow through effect, for the small business sector. I would like to think that the Hon. Legh Davis could join with me in dealing with this issue so that we can at least do something to wind back the impact that problem gambling has on individuals in the community.

I am sure that the Hon. Legh Davis has seen some of the evidence put to the Social Development Committee and the Productivity Commission which refers to how devastating problem gambling can be in the community. He could begin to look at this issue as one of consumer protection, involving the safety of a product in terms of its usage in the community, without necessarily impinging on the rights of others. With a number of measures that would address issues of consumer protection and informed consent regarding the design of the product, we could make some significant inroads in reducing and winding back the impact that problem gambling has on some individuals in our community.

The Hon. M.J. ELLIOTT: I have not bothered to buy into most of the debate so far, but I think the issues raised by the Hon. Legh Davis are important and go to the heart of where I am coming from in this debate about gaming machines, gambling in general and their regulation. I think it is a grave mistake to try to make a simple comparison between a decision to buy an ordinary consumer product and a decision to gamble. It might be true that for a significant number of gamblers they make a deliberate decision, one that they can stick to, and it is just entertainment spending. However, when we are talking about gambling, unlike having a meal, going to a hotel or a range of other expenditures, we are talking about something that is addictive. You do not go out for a meal and suddenly decide to have 10 or 20 meals, and you do not go to a hotel and say, 'I feel like having 20 beds tonight rather than one.'

As has been said tonight, the Productivity Commission suggests that 43 per cent of losses come from addicted gamblers, even though they might make up a relatively small percentage of the total number of gamblers. Most gamblers may simply make a decision to spend some money for the purpose of entertainment, but for problem gamblers that is not what they are doing. It is no accident that the Dutch treat gambling in exactly the same way as they treat heroin, cannabis and a number of other things.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: They are not treated in that way. That smart comment does not reflect what is happening in the Netherlands. The Netherlands is seeking to regulate gambling. That country sees gambling as an addictive problem and a problem that has a psychological basis in exactly the same way as drugs. I noted also today in some other comments made by the Hon. Nick Xenophon about the conference he attended in New Zealand that he was sponsored by schools of medicine. This is no accident. We are not talking about ordinary consumer decisions for a number of people who are gambling. There are people who have an addictive behaviour linked to it.

I am being quite consistent in terms of my attitude to drugs, prostitution, gambling, etc. I do not seek to control people's behaviour in every sense, but I do recognise that there are people who become involved in the use of drugs and other things and who are suffering as a consequence of it. I do believe that government should seek to regulate and to minimise harms as far as possible, which is why I support it. In fact, I moved a private member's bill to ban tobacco advertising. I also have a strong view about the promotion of alcohol and, although I have advocated the availability of cannabis, I have advocated it under strict regulation. I see gambling in the same sense.

I have never had a view that we should try to stop gambling, but I have had a view (and it is consistent with my push for a gaming commission) that we should seek to minimise harms that are associated with it. We do not need a commission to regulate people buying beds, refrigerators and a lot of consumer products; but where you have something that has the capacity to do significant harm then we do have, I think, an obligation to look at regulation in some way.

The Hon. Mr Davis talked about real economists. Real economists do not always live in the real world. They might look at it all as just simple spending, but I must say that real economists are not sociologists or psychologists and economics is not immoral but amoral. I do believe that, within this bill, there are some important moral issues that need to be addressed that a real economist might not ever understand.

The Hon. NICK XENOPHON: I thank the Hon. Mike Elliott for his contribution. The Hon. Legh Davis drew comparisons between going to a restaurant, the opera and other forms of entertainment. I know of no other industry that has established a fund for the rehabilitation of those who have difficulty using its product. The hotels and clubs, to their credit, put $1.5 million into a rehabilitation fund to assist the Breakeven service. I think that members on both sides of this committee appreciate the very high standards and the professionalism of those involved in the Breakeven service. No other industry of which I am aware has a fund to assist those who have a difficulty with their product.

Further, the Hotels Associations has its own mechanism to exclude people who have difficulty. That is quite unique compared to other industries and it reflects the fact that this product can and does cause a significant degree of dislocation in the community.

The Hon. R.I. LUCAS: The only comment of a general nature I wanted to make, and I should have made it at the outset, is that as we soldier on through the committee stages of this debate I am aware that whilst some members in this chamber (and I may well be one of them) support, oppose or amend some provisions in this bill they do have a healthy scepticism about the shape and structure of what might be left, to the degree that we may oppose the third reading of the bill and not seek its passage through this chamber. A number of members seriously felt that the provisions of this bill were so sufficiently and significantly flawed in their drafting that the bill ought to have been defeated at the second reading. I think that the Hon. Mr Xenophon was aware that a number of members did contemplate not supporting it at the second reading. In the end, the majority, if not all members—I do not recall if we had a vote—

The Hon. Nick Xenophon: No division.

The Hon. R.I. LUCAS: There was no division, because I think members did ultimately believe that this was the honourable member's obsession, indeed crusade, and not to allow the honourable member to proceed to debate over many weeks the committee stages of the bill would have been a cruel punishment to inflict on the honourable member and his supporters. After all, what else would the honourable member have done with his life and his time in the parliament had the bill been defeated at the second reading?

The Hon. L.H. Davis: He could have had lunch with Danny Price.

The Hon. R.I. LUCAS: He could have had lunch with Danny Price—again. There were members who did contemplate not supporting the second reading. It is only fair to indicate that, whilst members—and I can speak for myself—will work their way reasonably and sensibly through this laborious committee stage, some of us do start off with a significant concern about the inadequacy of the drafting. In some respects, either by deliberate intent or otherwise, we think that it will have some very significant impacts on people in the community and on business operators in the gambling industry generally. We believe that many of those people are not aware of the potential impacts of some of the provisions in the legislation. I guess it will be the responsibility for those of us who have those views to circulate those concerns to the potentially impacted parties over the coming weeks during the debate.

But I did want to flag at the outset—and I should have done this when I spoke earlier—that there are some members who, in the end, may well take the view that the bill, having gone through the committee stage, is no better and may indeed be significantly worse than it was when it entered the committee stage. It might be that in some areas the government will indicate, having been through the debate, that it might be better to revisit it either through another private member's bill or through, in some areas, the government indicating its willingness to put its foot in the water and look at a particular issue or two in preference to what we might see as being flawed legislation being allowed to pass through this Council, and ultimately to another house.

Added to that there is a very significant problem we have in a key part of the bill in relation to the impact authority and the gambling fund in that we are unable, as I understand it, to debate that in this Council to any great degree, if at all. It does make it a bit difficult for those of us debating this bill to have a significant money provision in it with a significant

budget impact, which on my advice will cause some significant problems in terms of addressing in this chamber—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: As I understand it, from the law as it stands, the law that the honourable member has pledged to support as a lawyer, and that is a significant inhibition on a sensible debate in this chamber. There is a key provision that we might have some significant difficulty discussing. When you want to talk about the authority, a key part of what the authority is about is the fund. If we are to be inhibited in relation to the fund, as we are by law, as I understand it, it will make it difficult to sensibly discuss the authority, of whatever shape it might be. I understand the Hon. Mr Elliott has a different authority in mind, and we will see that through some amendments over the next few days, hopefully.

I just wanted to flag those issues in terms of at least the initial thinking of some members. I can only speak absolutely with authority on behalf of myself on this issue and indicate that that is a position I would reserve for myself. It may well be that I choose, having been through the laborious debate, to say that this is all too awful to inflict on any other living being, let alone another chamber of members of parliament, and my view would then be to oppose it at the third reading.

The Hon. L.H. DAVIS: The Treasurer has put it very fairly. Certainly, there are members not only on the government side who see some really limiting factors in the drafting of this legislation. Indeed, the Hon. Nick Xenophon has already conceded, almost as an excuse for not answering questions, that the major proposal about banning poker machines in hotels within five years is a measure which would not have majority support in this chamber.

He has also conceded tonight during the committee stage that the proposal to allow clubs alone to have poker machines while banning them from hotels will not be pursued. That has rather gutted the bill.

In addressing legislation in this chamber, whether it be of a government or a private nature, as this legislation is, we have to recognise that as legislators we have to be practical and realistic and address the budgetary consequences. That is what we did in matters such as the long-running debate on electricity sale or lease: we had to address the budgetary consequences.

Whether the Hon. Nick Xenophon likes it or not—and I do not think he does—with this bill we have to address the budgetary consequences of the legislation. It would be irresponsible of any legislator in this chamber or another place to pass willy-nilly a piece of legislation that may have a devastating impact on the budget. Therefore, whilst I opposed poker machines early in the 1990s when this legislation came before the Council and repeated that in my speech in November 1999, I am driven very much by the practical and realistic approach that is required in evaluating this legislation.

As I made clear in my earlier contribution, I am very sympathetic to the social and economic consequences of gambling. No-one who has examined the subject seriously would be unaware of the social and economic consequences, just as we can say that about excessive drinking, bad driving or bad dietary habits. I just draw the Hon. Nick Xenophon's attention to the practical consequences of what he is trying to address here.

I do not deny his right to do it, because he came to this parliament with a mandate for no pokies—although we did not realise at the time that it was not an all-embracing notion of no pokies. He is effectively saying that we should ban poker machines, while being allowed to have them in clubs, although they might account for a figure of perhaps 60 per cent of all gambling problems. I know that the Productivity Commission had a comment on this, and a study done locally suggested 69 per cent although, as the honourable member would know, that figure was debated by Mr Dale West of the Gamblers Rehabilitation Fund Committee for Centrecare Catholic Family Services, who thought that the figure might have been lower than that.

However, let us assume it is 60 per cent, that it represents six out of every 10 problem gamblers. The Hon. Nick Xenophon asks the parliament to support the notion of poker machines as the major source of problem gambling and, therefore, ban them, leaving 40 per cent of problem gambling areas, whether it be the TAB, the lotteries, Keno or racing, as they were. One could argue logically or by analogy that that is the same as saying that statistically there is overwhelming evidence to say that people in small cars are more vulnerable in road accidents. There is a very strong statistical probability that if you are in a small car rather than a large car you could suffer death on the road.

The Hon. Nick Xenophon: I have a three-cylinder car.

The Hon. L.H. DAVIS: Then I think that we could argue by analogy that, if we took Mr Xenophon's proposition that we should ban poker machines because they create most of the problems, we should not allow people to drive small cars, because they are more vulnerable in an accident and could lead to death more easily than large cars. The answer to it, of course, is that we take special care and upgrade road safety measures; we have airbags, seat belts—

The Hon. M.J. Elliott interjecting:

The Hon. L.H. DAVIS: That is right; we regulate. In that sense I agree with the Hon. Michael Elliott's comment recently that we should be approaching this issue with its serious social and economic consequences sensibly. Therefore, I applaud the Australian Hotels Association for its initiative, alone of all groups that have an involvement with gambling in South Australia, for the way in which it has established its gamblers rehabilitation fund. It is not insignificant. On top of that, of course, as the Hon. Nick Xenophon has been slow to admit, hotels around South Australia—and more easily identified in country areas, as my colleague the Hon. Caroline Schaefer could attest—make enormous contributions in cash and kind to charities and community organisations in their own region. I think it is important for us to recognise that the Hon. Nick Xenophon's suggestion, which is obviously doomed, to ban poker machines in hotels within five years, however well intentioned, is impractical. If we took this notion to its fullest extent we could be having some very interesting legislation indeed before us in future years.

The Hon. NICK XENOPHON: The Hon. Legh Davis has spoken about safety measures and road safety rules, and I think that is a useful contribution and a useful approach. Even if we took the approach that we begin to look at gambling, as the Hon. Michael Elliott has said, as an issue where there ought to be significant harm minimisation to acknowledge the potential harm, we can go a long way in reducing the impact on the community; just as there are speed limits on motor vehicles, just as we have laws on seat belts, airbags and the design of motor vehicles has changed over the years. That is a useful starting point at which to look at changes to the gambling industry so that we can begin to address some of the very significant questions raised by the impact of gambling in the community. I invite the Hon. Davis

to read the Productivity Commission's report again where it talks of the incidence of 65 to 80 per cent of significant problem gamblers being due to poker machines.

Clause passed.

Progress reported; committee to sit again.

NATIVE TITLE (SOUTH AUSTRALIA) (VALIDATION AND CONFIRMATION) AMENDMENT BILL

Adjourned debate on second reading.

Continued from 18 November. Page 518.)

The Hon. SANDRA KANCK: The Democrats are disappointed that we are again dealing with a bill that seeks to restrict native title. About 15 months ago, the Attorney-General introduced native title legislation. In my second reading contribution to that debate last year I detailed the Democrats' commitment to upholding the principle of native title in South Australia, and I reaffirm that commitment.

This bill seems to contain most of the objectionable provisions that were in the previous bill. The so-called intermediate period acts and previous exclusive possession acts are again employed in this bill as a means of restricting native title. The Attorney-General claims that the confirmation provisions do not extinguish native title but merely confirm the types of land over which native title has already been extinguished. I think the High Court's *Wik* decision gives rise to a valid doubt that the situation is not as clean cut as the Attorney-General suggests.

We are also told that, should the bill pass, more than 80 per cent of the state would still be open to native title claims. That implies that extinguishing native title on the other 20 per cent is a fair trade for being able to claim a native title on the remaining 80 per cent. This treats Aboriginal groups as one single entity and misses the pertinent fact that native title is specifically tied to a particular place and held by a particular group. It cannot be transferred to the other 80 per cent if you are part of the 20 per cent that has lost out: nor can it be traded.

The Attorney-General also notes that the bill will provide comfort to leaseholders. Why leaseholders' comfort is more important than Aboriginal title is not explained. I have grave doubts as to the equity of this bill, but I am willing to be guided by the South Australian Native Title Steering Committee on this matter. That committee has been in contact with my office and indicated that some of the questions the committee had directed to crown law on the current bill have either been inadequately answered or not answered at all. As a consequence, the committee has been unable to make a fully informed judgment on the bill.

Therefore, I would take this opportunity to put those same questions that the Native Title Steering Committee has been putting to the Attorney-General in the hope that he will be able to provide information and resolve any doubts. Until that information is made available, I would be loath to progress this bill. The Native Title Steering Committee is looking for details of all grants of freehold title or leases, other than non-exclusive pastoral leases purportedly granted between 1 January 1994 and 23 December 1996, excluding past acts as defined in section 228 of the Native Title Act 1993 over land which, prior to resumption by the crown, comprised land held under pastoral lease or had been reserved as a national park or for some other purpose consistent with coexistent native title.

Secondly, it desires details of all so-called previous exclusive possession acts, not being past acts, carried out in this state, in respect of land which is presently under native title claim and now comprises pastoral land, vacant crown land or land reserved as a national park or some other purpose consistent with co-existing native title. Thirdly, it desires a map showing the approximate locations in South Australia of the land subject to such previous exclusive possession acts as are referred to in paragraph 2.

I do not think it is too much to ask for this information to be provided to the Native Title Steering Committee. It is in a position to be able to contribute positively in this debate, provided that the information is there. Without the information, I think it is inappropriate for the parliament to go ahead and make decisions because we would be making decisions in a partial vacuum.

Until I have some of this information either provided to me so that I can pass it on to the Native Title Steering Committee, or that I am aware that the steering committee has that information, I will reserve my judgment on this bill, but I indicate at this stage that I will support the second reading.

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

TOBACCO PRODUCTS REGULATION (EVIDENCE OF AGE) AMENDMENT BILL

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

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): 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.

A recent amendment of the *Tobacco Products Regulation Act 1997*, introduced by the honourable member for Torrens and supported by the government, extended the prohibition on the sale of tobacco products to minors to include prescribed products, being other than tobacco products, which are designed for smoking (eg. herbal cigarettes). Both Section 38, which enacts the prohibition, and Section 39, which enables authorised persons to request evidence of age, were amended.

The amendment is now in force and it is apparent that a further amendment will enhance its operation.

Section 39(3) of the Act specifies the classes of persons who are authorised persons in terms of that Section. These are—

A person who holds a tobacco products retail licence and the employees of such a person;

An authorised officer appointed by the minister

All members of the police force.

An authorised person who suspects, on reasonable grounds, that a person seeking to obtain a tobacco product or non-tobacco product is a child may require evidence of the person's age to be produced. A person who fails to comply with such a requirement (without reasonable excuse) or makes a false statement or produces false evidence is guilty of an offence.

The intention of the earlier amendment was to prohibit the sale to minors of non-tobacco products designed for smoking. Such products, as they are not tobacco products, may be sold by persons not holding a licence to sell tobacco products. As the list of authorised persons currently stands, persons carrying on such a business and their employees are not included. It is clearly desirable that they also be able to require proof of age when in doubt, in the same way that vendors of tobacco products are able to do so. The Bill makes provision accordingly.

I commend this Bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 39—Evidence of age may be required
This clause amends section 39 of the principal Act. Section 39 empowers an 'authorised person' who suspects on reasonable grounds that a person seeking to obtain a tobacco product or a non-tobacco product that is designed for smoking may be a child to require that person to produce satisfactory evidence of his or her age. A person who fails to comply with such a requirement (without reasonable excuse) or who makes a false statement or produces false evidence is guilty of an offence.

Apart from the police and authorised officers specifically appointed by the Minister under Part 5 of the Act, the authorised persons who can currently require evidence of age under this section are persons who hold a tobacco products retail licence and the employees of such persons.

This clause amends section 39 to add to the list of authorised persons who can require proof of age those persons who carry on the business of the retail sale of non-tobacco products that are designed for smoking and the employees of such persons.

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

HEALTH PROFESSIONALS (SPECIAL EVENTS EXEMPTION) BILL

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

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): 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 this Bill is to provide an administratively simple method of enabling visiting health professionals to legally provide services to visitors participating in special events without breaching local registration laws.

As part of the Memorandum of Understanding with SOCOG and the Commonwealth, South Australia is required to provide for the registration of overseas health professionals, specifically medical practitioners associated with the Olympic Games and more particularly those associated with the Olympic teams that will be visiting South Australia during September this year. New South Wales and Tasmania already have legislation in place. This Bill is modelled on the New South Wales Act.

Existing legislation requires that each visiting health professional apply for and obtain temporary limited registration in the public interest from the relevant health professional registration authority. In recognition of the significant administrative burden that would be placed on these authorities by requiring temporary registration, the inconvenience resulting from the application process for temporary registration and the absence of significant risks to the public posed by visiting health professionals, it is considered that the most appropriate means of fulfilling the commitments of the State to SOCOG and the Commonwealth is to enact exemption legislation.

Visiting health professionals will, of course, be strictly limited to providing health care services to the visiting participants with whom they are travelling. The legislation is written so as to allow the minister to make an order declaring a sporting, cultural or other event to be held in South Australia to be a 'special event' if, in the opinion of the minister, it will attract or involve a significant number of participants from another country or other countries. This will allow the option of providing the exemption for similar events in the future. Visiting health professionals will need to give notice in the manner specified in the relevant special event order of their intention to provide health care services to members of their visiting party.

The Bill does not distinguish between different types of health professionals. Each visiting health professional will be exempt from all relevant health registration Acts. This approach has been taken because many health professionals are multi-skilled and are able to provide services that are outside the normal area of practice of their profession.

Medical practitioners are already able to bring pharmaceutical drugs into Australia by operation of an exemption under the Commonwealth *Therapeutic Goods Act 1989*. This Bill will permit visiting health professionals to possess, supply and administer drugs from their 'doctor's bag' brought into Australia under the Commonwealth Act, provided they supply and administer the drugs only to those visiting participants they have been engaged to provide health care services to.

Generally exempt practitioners will not be authorised to be supplied with pharmaceutical drugs to replenish their stocks. Nor will they be able to write prescriptions. Consultation with a registered medical practitioner will be required. However, this will not be an absolute restriction. If the organising body of a special event is able to establish that it has suitable administrative arrangements in place for the verification of prescriptions and the credentials of the practitioners, then the minister may authorise visiting practitioners to prescribe pharmaceutical drugs.

I commend the Bill.

Explanation of clauses

PART 1
PRELIMINARY

Clause 1: Short title
This clause is formal.

Clause 2: Commencement
This clause provides for commencement of the measure on a day to be fixed by proclamation.

Clause 3: Interpretation
This clause defines terms used in the measure.

PART 2
SPECIAL EVENTS EXEMPTION FOR VISITING HEALTH PROFESSIONALS

Clause 4: Special events
This clause empowers the minister to make an order declaring a specified event or event of a specified class to be a special event for the purposes of this measure. An order can be made in relation to any sporting, cultural or other event that is to take place or is taking place in the State and that, in the opinion of the minister, will attract or involve a significant number of participants from another country or other countries.

Clause 5: Definition of 'visiting health professional'
This clause defines the term 'visiting health professional' for the purposes of the measure.

Clause 6: Definition of 'visitor'
This clause defines the term 'visitor' for the purposes of the measure.

Clause 7: Provision of health care services to visitors by visiting health professionals
This clause authorises visiting health professionals to provide health care services to visitors for whom they have been appointed, employed, contracted or otherwise engaged to provide those services.

Clause 8: Conditions on practice by visiting health professionals
This clause allows conditions to be imposed on the provision of health care services by visiting health professionals.

Clause 9: Issue of prescriptions and supply of certain substances
This clause permits visiting health professionals to give prescriptions for prescription drugs only if authorised to do so by a special event order and empowers the minister, by a special event order, to authorise the giving of prescriptions for prescription drugs and impose conditions on authorisations.

Clause 10: Exemptions relating to offences
This clause provides exemptions from certain offences against Health Registration Acts and the *Controlled Substances Act 1984* where persons do things they are authorised by this measure to do or possess substances in circumstances in which they are authorised by this measure to do so.

PART 3
MISCELLANEOUS

Clause 11: Complaints about visiting health professionals
This clause provides that a complaint cannot be made about a visiting health professional under a Health Registration Act and no disciplinary action can be taken against a visiting health professional under such an Act, but the clause does not prevent the bringing of proceedings for offences against a Health Registration Act.

Clause 12: Application of Act to particular persons
This clause empowers by the minister, by order published in the *Gazette*, to declare that the measure or a specified provision of the measure does not apply to or in relation to a specified person or persons of a specified class.

Clause 13: Regulations
This clause empowers the Governor to make regulations for the purposes of the measure.

Clause 14: Review of Act
This clause requires the minister to review the measure to determine whether its policy objectives remain valid and whether its terms are

appropriate for securing those objectives. The clause requires the review to be undertaken as soon as practicable after the period of five years from the date of assent to the measure and requires a report on the outcome of the review to be prepared and tabled in both Houses of Parliament within 12 months after the end of that five year period.

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

FIRST HOME OWNER GRANT BILL

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

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): 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 Inter-governmental Agreement on the Reform of Commonwealth-State Financial Relations provides that, to offset the impact of the GST on home buyers, the States and Territories will assist first home buyers through the funding and administration of a new, uniform First Home Owners Scheme (FHOS).

The principles of the scheme are contained in the Intergovernmental Agreement.

The scheme will operate from 1 July 2000, and eligible applicants will be entitled to non-means tested $7 000 assistance per application in relation to eligible homes. To qualify for the grant, neither the applicant nor their spouse may have held a previous interest in residential property and must be entering into a binding contract or commencing building (in the case of owner-builders) on or after 1 July 2000.

Whilst the eligibility criteria of the scheme will be consistent across jurisdictions, the administrative and payment arrangements for the scheme to a large degree will be jurisdictional specific. Consistency has been maintained, where it has been practicable to do so.

Each jurisdiction currently has in place, stamp duty exemption or concession arrangements for first homebuyers. As specified in the Intergovernmental Agreement, the benefits under the FHOS are not to be offset by any variation to existing taxes and charges associated with home purchase. Accordingly, existing assistance to first homebuyers such as the Stamp Duty First Home Concession, will continue to operate in addition to this new first home owner grant. The FHOS has therefore been developed on the basis of establishing a separate, stand-alone scheme, and it does not attempt to address alignment of FHOS with existing schemes.

The scheme is to be administered in South Australia by Revenue SA. To improve service delivery to applicants, the Revenue Office proposes to enter into agreements with financial institutions to assist in its administration. This approach will enable the vast majority of grants to be paid via financial institutions, thereby ensuring the funds are available at settlement and will streamline the process.

The estimated cost of FHOS grants in South Australia is $63 million in 2000-2001. The GST revenue provided to the States and Territories under the Intergovernmental Agreement covers this funding requirement.

Significant consultation has occurred between the States, Territories and the Commonwealth on the development of the scheme. Revenue SA has also consulted with the Department of Human Services and relevant South Australian industry bodies.

I commend this Bill to honourable members.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides that the Act will come into operation on 1 July 2000.

Clause 3: Definitions

This clause contains interpretative provisions.

Clause 4: Homes

This clause defines "home" to be a building (affixed to land) that may lawfully be used as a place of residence and is, in the Commissioner's opinion, a suitable building for use as a place of residence.

Clause 5: Ownership of land and homes

This clause defines "owner", "home owner" and "relevant interest". Subclause (1) provides that a person is an "owner" of a home or a "home owner" if the person has a relevant interest in land on which the home is built. Subclause (2) sets out what are relevant interests. Subclause (3) specifies those interests that are not relevant interests. Despite subclause (3), however, subclause (4) enables the regulations to provide for recognition of an interest (a "non-conforming interest") as a relevant interest even though the interest may not conform with the listed interests constituting relevant interests and even though the interest may not be recognised at law or in equity as an interest in land. Subclause (5) empowers the Commissioner to impose conditions on the payment of grants in respect of non-conforming interests in order to ensure recovery of amounts paid if criteria prescribed in the regulations about future conduct or events are not satisfied.

Clause 6: Spouses

This clause defines "spouse", subclause (1) providing that a person is the "spouse" of another if they are legally married or cohabitating on a genuine domestic basis in a relationship of de facto marriage. Subclause (2) provides that if, at the time of the application for a first home owner grant (the "grant"), the Commissioner is satisfied that the applicant is legally married to a person but is not cohabiting with that person and has no intention of resuming cohabitation, the person to whom the applicant is legally married is not to be regarded as the applicant's spouse.

PART 2

FIRST HOME OWNER GRANT

DIVISION 1—ENTITLEMENT TO GRANT

Clause 7: Entitlement to grant

This clause provides that a grant is payable if the applicant complies with the eligibility criteria (set out in Division 2 of Part 2) (unless exempted by or under the Act from compliance) and the transaction for which the grant is sought is an eligible transaction ("eligible transaction" is defined at clause 13) and has been completed. Subclause (3) provides that only one first home owner grant is payable for the same eligible transaction.

DIVISION 2—ELIGIBILITY CRITERIA (APPLICANTS)

This division sets out the five eligibility criteria to be satisfied in order to qualify for the grant.

Clause 8: Criterion 1—Applicant to be a natural person

This clause sets out criterion 1 which is that the applicant must be a natural person.

Clause 9: Criterion 2—Applicant to be Australian citizen or permanent resident

This clause sets out criterion 2 which is that the applicant must be an Australian citizen or permanent resident, and, if there are joint applicants, the criterion need only apply to one of them.

Clause 10: Criterion 3—Applicant (or applicant's spouse) must not have received an earlier grant

This clause sets out criterion 3 which is that the applicant or his or her spouse must not have received an earlier grant or been able to successfully apply for a grant in respect of an earlier transaction to which he or she was a party.

Clause 11: Criterion 4—Applicant (or applicant's spouse) must not have had relevant interest in residential property

This clause sets out criterion 4. Subclause (1) provides that the applicant is ineligible if the applicant or his or her spouse has, before 1 July 2000, held a relevant interest in residential property in South Australia or an equivalent interest in another State or Territory or the Commonwealth under a corresponding law of that State or Territory or the Commonwealth. Subclause (2) provides that in working out whether an applicant held a relevant interest (under this Act or a corresponding law), any deferment of the applicant's right of occupation because of the property being subject to a lease is to be disregarded. Subclause (3) provides that an applicant is also ineligible if, before the commencement date of the relevant transaction, the applicant or his or her spouse held a residential property and the applicant or his or her spouse occupied that property.

Clause 12: Criterion 5—Residence requirement

This clause sets out criterion 5. Subclause (1) provides that the applicant must occupy the home as his or her principal place of residence within 12 months after the completion of the eligible transaction (or such longer period as is approved by the Commissioner of State Taxation (the "Commissioner")). Subclause (2) provides that the Commissioner may exempt the applicant from the residence requirement (in which case the applicant becomes a "non-

complying" applicant) if the applicant is one of two or more joint applicants for the grant and at least one of the applicants complies with the residence requirement and there are, in the Commissioner's opinion, good reasons to exempt the non-complying applicant from the residence requirement.

DIVISION 3—ELIGIBLE TRANSACTIONS

Clause 13: Eligible transaction

This clause deals with eligible transactions. Subclauses (1) to (3) set out what constitutes and what does not constitute an "eligible transaction". Subclause (4) defines the "commencement date" of an eligible transaction and subclause (5) defines when an eligible transaction is completed. Subclauses (4) and (5) are relevant to the calculation of the application period (see section 14(5)). Subclause (6) provides for the Act's particular application to moveable homes. Subclause (7) sets out what is meant by "consideration" for an eligible transaction, relevant to clause 18.

DIVISION 4—APPLICATION FOR GRANT

Clause 14: Application for grant

This clause provides for applications for first home owner grants. Subclauses (1) to (4) set out the requirements as to the form of the application. Subclauses (5) and (6) provide for the period within which an application is to be made (the "application period"). Subclause (7) provides that an applicant may, with the Commissioner's consent, amend an application.

Clause 15: All interested persons to join in application

This clause provides that all interested persons must be applicants and defines an "interested person" as being a person who is, or will be, on completion of the eligible transaction to which the application relates, an owner of the relevant home except such a person who is excluded from the application of the section under the regulations.

Clause 16: Application on behalf of person under legal disability

This clause provides that an application for a grant may be made, on behalf of a person under a legal disability, by a guardian and that the eligibility criteria will be measured against the person under the disability. Thus, for example, children, and persons suffering from mental impairment to the extent that they are unable to act legally, may benefit from the scheme.

DIVISION 5—DECISION ON APPLICATION

Clause 17: Commissioner to decide applications

This clause provides that once the Commissioner is satisfied that the grant is payable on an application, the Commissioner must authorise the payment of the grant. Subclause (2) enables the Commissioner to authorise the payment of the grant before the eligible transaction is completed if satisfied that there are good reasons for doing so and that there is a good chance that the grant can be repaid if the transaction is not completed within a reasonable time.

Clause 18: Amount of grant

This clause provides that the amount of the grant is either the consideration for the eligible transaction or $7 000, whichever is the lesser. This ensures that the grant will never exceed the cost of the eligible transaction.

Clause 19: Payment of grant

This clause provides for the manner and form of payment of the grant. Under this clause, payment of the grant may be by electronic funds transfer or by cheque, it may be made out to the applicant or the applicant's nominee, and may on request by the applicant, be applied towards paying off of a liability for State taxes, fees or charges.

Clause 20: Payment in anticipation of compliance with residence requirement

This clause provides that the Commissioner may authorise the payment of the grant in anticipation of compliance with the residence requirement on condition that the applicant who has not yet complied with the requirement intends to occupy the home as a principal place of residence within 12 months after completing the eligible transaction, and that the grant is repaid if the residence requirement is not complied with by the relevant date. Subclause (3) defines "relevant date" as being either the end of the period allowed for compliance with the residence requirement or the date on which it first becomes apparent that the residence requirement will not be complied with during the period allowed for compliance, whichever is the earlier. Subclause (4) makes it an offence attracting a maximum penalty of $5 000 if the residence requirement is not complied with and the applicant does not, within 14 days after the relevant date, notify the Commissioner of non-compliance with the residence requirement and repay the amount of the grant.

Clause 21: Conditions generally

This clause provides that the Commissioner may authorise the payment of the grant on conditions that the Commissioner considers appropriate. Subclause (2) sets out the types of conditions that may be imposed. Subclause (3) provides that in the case of a joint application, each applicant is individually liable to comply with a condition but compliance by any one of the applicants is to be regarded as compliance by both or all. Subclause (4) makes it an offence attracting a maximum penalty of $5 000 not to comply with a condition imposed by the Commissioner.

Clause 22: Death of applicant

This clause provides that the death of an applicant does not signify the end of the application. Subclause (2) provides that where the deceased was one of two or more applicants and one or more applicants survive, the application is to be treated as if the surviving applicants were the sole applicants, and, where the deceased was the sole applicant, the grant is to be paid to the deceased's estate. Subclause (3) provides that where the deceased applicant was not occupying the home as principal place of residence at the time of his or her death but the Commissioner is satisfied that the deceased intended to do so within 12 months (or a longer period if the Commissioner allows) after completion of the eligible transaction, the residence requirement is satisfied.

Clause 23: Power to correct decision

This clause gives the Commissioner the power to vary or reverse a decision (within 5 years of the decision) on an application if satisfied that the decision was incorrect.

Clause 24: Notification of decision

This clause provides that the Commissioner must give notice of the decision on the application to the applicant, and that where the Commissioner decides to refuse the application or to vary or reverse an earlier decision on an application, the Commissioner must state in the notice the reasons for the decision.

DIVISION 6—OBJECTIONS AND APPEALS

Clause 25: Objections

This clause sets out the applicant's entitlement to lodge an objection to the Commissioner's decision on the application with the Treasurer. The clause further sets out the manner and form of the objection.

Clause 26: Reference of objection to Crown Solicitor for advice

This clause enables the Treasurer to refer an objection to the Commissioner's decision on an application to the Crown Solicitor for advice.

Clause 27: Powers of the Treasurer on objection

Subclause (1) of this clause gives the Treasurer the power to confirm, vary or reverse the decision of the Commissioner. Subclause (2) provides that the Treasurer must give written notice of the decision on the objection including reasons for the decision.

Clause 28: Appeal

This clause provides for the objector's right to appeal against the Treasurer's decision to the Magistrates Court. Subclause (2) provides that the appeal must be commenced within 60 days after the Treasurer's notice is given, however the Court may, under subclause (3), extend the time for commencing the appeal.

Clause 29: Determination of appeal

This clause provides that the Magistrates Court may confirm, vary or reverse the Treasurer's decision and make incidental and ancillary orders.

Clause 30: Objection or appeal not to stay proceedings based on the relevant decision

This clause provides that a decision on an application is valid until an objection or appeal is heard, and before such time, may be acted upon as a correct decision even though it may at that time be subject to an objection or appeal. However, under subclause (2) when an objection or appeal is decided, the Commissioner must take necessary action to give effect to that decision.

PART 3

ADMINISTRATION

DIVISION 1—ADMINISTRATION GENERALLY

Clause 31: Administration

This clause provides that the Commissioner is responsible to the Treasurer for the administration of the first home owner grant scheme.

Clause 32: Delegation

This clause provides that the Minister may delegate functions related to the administration of the grant scheme, including by entering into agreements with financial institutions to assist in the administration of the scheme, for example, to facilitate the payment of grants to eligible applicants. Subclause (4) makes it an offence attracting a maximum penalty of $10 000 for a financial institution or other person to contravene any condition prescribed by the regulations.

DIVISION 2—INVESTIGATIONS

Clause 33: Authorised investigations

This clause defines an "authorised investigation" as one to determine the various matters listed.

Clause 34: Cross-border investigation

This clause empowers the Commissioner on request by an authority (whether in another State or Territory or the Commonwealth) responsible for administering a corresponding law, to carry out authorised investigations under that corresponding law. Subclause (2) allows the Commissioner to delegate his or her powers of investigation under Division 2 of Part 3 to the authority (whether in another State or Territory or the Commonwealth) responsible for administering a corresponding law or that authority's delegate. This provision facilitates cross-border investigations.

Clause 35: Power of investigation

This clause sets out the powers of the Commissioner to require a person to produce certain information in a certain manner in the context of authorised investigations. Under subclause (3), failure to comply with such a requirement is an offence for which the maximum penalty is $10 000. Under subclause (4), failure to answer a question relevant to the investigation during a hearing before the Commissioner is also an offence attracting a maximum penalty of $10 000.

Clause 36: Powers of entry and inspection

This clause provides that an authorised officer may, for the purposes of an authorised investigation, exercise any of the powers listed. Subclause (2) provides that an authorised officer may only enter premises to carry out an authorised investigation with the consent of the occupier or with a warrant. Subclause (3) provides that a magistrate may issue such a warrant if satisfied that it is reasonably necessary for the administration or enforcement of the Act. Subclause (4) provides that an authorised officer may be accompanied by any assistants reasonably required by the officer to carry out the authorised investigation. Subclause (5) provides that engaging in particular conduct intended to hamper an authorised investigation is an offence attracting a maximum penalty of $5 000.

Clause 37: Self incrimination

This clause provides that the possibility of self-incrimination or liability to a penalty is not an excuse for failing to answer a question or producing a document in the course of an authorised investigation. Subclause (2) provides that if, however, a person objects to the requirement to answer a question or produce a document on the grounds of self-incrimination, and then proceeds to answer the question or produce the document, that information is not admissible in proceedings for an offence or for the imposition of a penalty other than proceedings under the Act.

PART 4
MISCELLANEOUS

Clause 38: Dishonesty

This clause provides that it is an offence attracting a maximum penalty of $20 000 or imprisonment for two years for a person to make a false or misleading statement in or in connection with an application for a grant knowing that such statement is false or misleading. Subclauses (2) and (3) provide that it is an offence for which the maximum penalty is $2 500 for a person to intentionally or negligently make a misleading statement in or in connection with an application for a grant.

Clause 39: Power to require repayment and impose penalty

This clause enables the Commissioner to recover the amount of the grant (from an applicant, former applicant or third party) and to impose a penalty where the grant was paid in consequence of the applicant's dishonesty or where the applicant (or former applicant) fails to repay the grant.

Clause 40: Power to recover amount paid in error etc.

This clause deals with the recovery of amounts representing grants paid in error or penalties. Subclause (1) provides that the liability arising from the requirement to repay a grant or to pay a penalty is, if the requirement attaches to two or more persons, joint and several. Subclause (2) provides that an applicant who is liable to repay a grant or to pay a penalty has an interest in the home for which the grant was sought, the liability is a first charge on the applicant's interest in that home. Subclause (4) provides that the Commissioner may recover such an amount as a debt due to the Crown. Subclause (5) provides that the Commissioner may enter into an arrangement (which may include provision for the payment of interest) for payment of a such a liability by instalment. Subclause (6) enables the Commissioner to write off the whole or part of a liability if satisfied that any action to recover the amount outstanding is impracticable or unwarranted.

Clause 41: Protection of confidential information

This clause provides for the protection of certain information ("protected information") and a duty of confidentiality to which a person is subject if the person is or has been engaged in work related to the administration of the Act or if the person has obtained access to the protected information from a person who is or has been engaged in work related to the administration of the Act. Contravention of this provision attracts a maximum penalty of $10 000. Subclause (3) sets out the limited circumstances in which protected information may be disclosed.

Clause 42: Evidence

This clause contains evidentiary provisions to the effect that certain documents signed or issued by the Commissioner are admissible in legal proceedings as evidence of matters stated in those documents.

Clause 43: Time for commencing prosecution

This clause provides that proceedings for an offence against the Act may only be commenced within 2 years after the date on which the offence is alleged to have been committed.

Clause 44: Standing appropriation

This clause provides that payment of grants under the Act will be made out of the Consolidated Account.

Clause 45: Protection of officers etc.

This clause provides that no personal liability attaches to the Commissioner, an authorised officer or a delegate of the Commissioner who works in a department or administrative unit of the Public Service for an honest act or omission in the performance, or purported performance, of functions under the Act. Subclause (2) provides that liability for such acts or omissions lies against the Crown.

Clause 46: Regulations

This clause sets out the regulation making power and specifies that a regulation may prescribe a penalty of not more than $2 500 for a contravention of a regulation.

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

STATUTES REPEAL (MINISTER FOR PRIMARY INDUSTRIES AND RESOURCES PORTFOLIO) BILL

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

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): 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 objective of this bill is to repeal nine Acts on agricultural issues, ranging from tenancy rights to horticultural grading standards, margarine manufacture and rural adjustment schemes.

The decision to repeal these Acts has been taken after consultation with 16 relevant industry groups or commercial organisations. These included the South Australian Farmers Federation, the SA Chamber of Fruit and Vegetable Industries and companies such as Unilever Foods, Coles and Woolworths. Responses to the public discussion paper indicated (with the exception of two respondents) very strong support for repeal of the nine Acts

The Acts will now be examined in alphabetical order of title.

THE AGRICULTURAL HOLDINGS ACT 1891

The Act applies to freehold land used for primary production. It aims to protect the tenants of farming land in two ways-

- Part 2 deals with the right of tenants who have ended their tenancy to receive compensation for any improvements they made to the landlord's property;
- Part 3 of the Act gives tenants the right to sell the tenancy.

This Act is no longer relevant. The *Landlord and Tenant Act 1936* (*see section 64*) gives tenants the right to assign a tenancy to another party, similar to the right provided by Part 3 described above and, generally, the matters provided for in the *Agricultural Holdings Act* can be covered in a written lease or sharefarming agreement between landlord and tenant.

DAIRY INDUSTRY ASSISTANCE (SPECIAL PROVISIONS) ACT 1978

This Act was one of several initiatives launched nationwide in the 1970s to 'facilitate provision of financial assistance to certain

sections of the dairy industry and for other purposes'. Similar Acts providing for the beef and fruitgrowing industries (*see the Beef Industry Assistance Act 1975 and the Fruitgrowing Industry (Assistance Act) 1972*) have already been repealed.

Commonwealth money was to be used for grants to 'proclaimed' dairy producers and dairy factories. However, this particular scheme did not progress and the Act was never made operative.

FRUIT AND VEGETABLES (GRADING) ACT 1934

This Act provides for the making of regulations to fix grade standards for fresh produce and nursery stock sold in South Australia. The sale of these is prohibited where they are not graded in accordance with the regulations or the grade is incorrectly marked on any package or lot of product. Standards may be fixed in the regulations by reference to one or more of dimensions, shape, weight, flavour, maturity, ripeness, decay or any other attribute. Regulations for potatoes, tomatoes and the more common fruits were established in the 1930s and reviewed in 1961, but became moribund with the lapsing of the regulations on 1 January 1990. Departmental officers cannot recall an actual or practical demand for the Act in the last 15 years.

Industry is now focused on the adoption of ISO standards, or variations of these, as criteria for grower/merchant/retailer dealings in fresh product. This is a clear example of industry self-regulation (as opposed to statutory rules) which governments collectively have been promoting for some time.

Despite this situation, two grower-based respondents to the discussion paper suggested that, although industry self-regulation is well under way, the retention of the Act may be necessary to deter a minority who persist in supplying fruit of poor maturity standard. The proposition was not accepted for the reasons already given, but government assistance in developing dispute resolution processes was offered. To date, the offer has not been taken up.

GARDEN PRODUCE (REGULATION OF DELIVERY) ACT 1967

The object of this Act is to control the times at which deliveries of fresh produce may be made to wholesale purchasers. Parliament's second reading of the Act on 14 March 1967 reveals that the measure was prompted by conditions at the East End Market. It was said that disorder at the East End was increasing because wholesalers just outside the market precinct were commencing business earlier than official market hours.

An industry proposal to invoke the Act in terms of the Pooraka complex was launched in 1988 but nothing eventuated. On 1 January 1990, the regulations under the Act, which had no effect on the Pooraka trading hours, were allowed to lapse.

MARGARINE ACT 1939

The purpose of this Act is to regulate the manufacture and sale of margarine in South Australia. Principal features of the Act are-

- the licensing of margarine manufacturers;
- the declaration of 'table' and 'non-table' margarine;
- inspection of premises and product/product constituents;
- testing of product for compliance with the Act or regulations (quality aspects).

Time, technology and consumer preference have changed things to the point where the Act no longer has application. In particular, the licensing provisions of the Act have not been enforced for a considerable time and matters of product quality now rest under the Food Standards Code.

MARGINAL DAIRY FARMS (AGREEMENT) ACT 1971

This Act ratified a national agreement to extend the Marginal Dairy Farms Reconstruction Scheme. The extended scheme aimed to alleviate a serious low income problem amongst producers of whole milk or cream for manufacturing purposes. A total of $25 million in Commonwealth funds was allocated to the States for—

- voluntary disposal of land at fair market value if there was insufficient potential for viability (when income was based on sales of the above product);
- acquisition by others of that land, for the build-up of dairy farms into economic units or purposes such as forestry;
- improvements to farm buildings, the purchase of livestock or to offset the costs of working the land during the development period;
- changeovers to refrigerated milk delivery.

The Marginal Dairy Farms Reconstruction Scheme has ceased and all financial issues, including the repayment of loans by producers, have been settled.

RURAL INDUSTRY ADJUSTMENT (RATIFICATION OF AGREEMENT) ACT 1990

Aspects of the continuing rationalisation of the rural adjustment process are described earlier in this report. The situation, in fact, is now at the stage where just two avenues of rural adjustment, and indeed development, are on offer.

In South Australia, there is the *Rural Industry Adjustment and Development Act 1985*. Under this legislation, surplus funds from previous schemes may be used for loans or grants for specified purposes that enhance farming.

At Commonwealth level, there is the *Rural Adjustment Scheme Act 1992* (administered by the States as agents) and the associated 'Triple A' scheme.

It was the practice for the schemes replaced by the above to be expressed in agreements between the Commonwealth and the States. It also was the practice in South Australia to ratify those agreements by Acts.

The arrangements provided for under the *Rural Industry Adjustment (Ratification of Agreement) Act 1990* have now been superseded and the Act can be repealed.

RURAL INDUSTRY ASSISTANCE ACT 1985

This short Act did three things—

- it maintained the agreements on rural adjustment ('reconstruction') between the Commonwealth and States, signed on 4 June 1971 and 1 January 1977 'and any subsequent agreements';
- in the process, it repealed various Acts of those years;
- it enabled the issuing of Ministerial protection certificates with respect to applicants with prospects of assistance under the Act.

These arrangements are no longer applicable and the Act can be repealed.

RURAL INDUSTRY ASSISTANCE (RATIFICATION OF AGREEMENT) ACT 1985

This Act operated in tandem with the above and ratified the agreement of 1 July 1985 between the Commonwealth and States for assistance, in the forms of debt reconstruction, farm build-up, farm improvement, carry-on finance, household support and rehabilitation. Section 5 of the Act makes the relevant cross-reference to the *Rural Industry Assistance Act 1985*. This Act has also been superseded and it is appropriate that it be repealed.

I commend this bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Repeal of certain Acts

This clause provides for the repeal of the following Acts:

- the *Agricultural Holdings Act 1891*;
- the *Dairy Industry Assistance (Special Provisions) Act 1978*;
- the *Fruit and Vegetables (Grading) Act 1934*;
- the *Garden Produce (Regulation of Delivery) Act 1967*;
- the *Margarine Act 1939*;
- the *Marginal Dairy Farms (Agreement) Act 1971*;
- the *Rural Industry Adjustment (Ratification of Agreement) Act 1990*;
- the *Rural Industry Assistance Act 1985*;
- the *Rural Industry Assistance (Ratification of Agreement) Act 1985*.

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

PRICES (MISCELLANEOUS) AMENDMENT BILL

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

SOUTH AUSTRALIAN HEALTH COMMISSION (ADMINISTRATIVE ARRANGEMENTS) AMENDMENT BILL

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

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): 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 this bill is to make administrative changes to the *South Australian Health Commission Act 1976* to streamline administrative arrangements and more appropriately reflect in legislation what is occurring in practice.

In his 1999 and 1998 reports to Parliament, the Auditor-General expressed concern over the need to clarify the administrative arrangements between the Health Commission and the Department of Human Services.

In order to overcome the concerns of the Auditor-General the Section of the Act relating to the appointment of the Chief Executive Officer is to be repealed. In addition the Auditor-General's concerns relating to the validity of actions taken by the current Chief Executive Officer since her appointment, set out in his reports in 1998 and 1999, are to be addressed through a transitional amendment which validates all actions taken and decisions made by the current CEO.

The bill also seeks to clarify the functions which should reside in the Commission and those that should more appropriately be vested in the Minister.

The Health Commission has been retained as a corporate body and in recognition of its importance within South Australia, has been given a new set of high level functions. These functions all relate to safeguarding the health of South Australians both generally and specifically. For example, the Commission has a mandate to promote proper standards of public and environmental health in the State generally and will be responsible for generally promoting health and well-being across the State.

The Commission has retained several very significant functions and powers to enhance and protect the health of South Australians. These include prohibiting the sale, movement, or disposal of food that is not fit for human consumption and ordering the destruction of that food under the *Food Act 1985*. The Commission will continue to be responsible under the *Food Act 1985* for publishing or requiring someone to publish a warning against the risk that food is unfit for human consumption.

Similarly, the Commission will continue to exercise some important powers relating to controlled notifiable diseases under the *Public and Environmental Health Act 1987*. These include the powers which provide for the taking of action to prevent the risk of infection spreading.

Staff may be assigned to the Commission from time to time as required. There will no longer be a need for a Chief Executive of the Commission, as most of the functions of the Commission are transferred to the Minister. The bill, therefore, repeals the requirement for a Chief Executive Officer of the Commission.

The administrative arrangements around the Health Commission and the Department of Human Services have become well merged to reflect a broader view of health and well-being. In order to achieve a true human services perspective on work being done, staff and managers are linking into all parts of the Department, rather than having a narrow focus. An integrated system of service must also be reflected in an integrated Department to ensure that systems work well together.

Even though in practice, these two legally separate bodies have merged their functions, nevertheless the accounting arrangements and financial reporting on the amounts specifically spent on each function must continue to be kept separate under current legislation. Continuing to maintain separate accounts for the Health Commission and the Department of Human Services is administratively inefficient and consumes excessive amounts of staff time. It also increases the possibility of an accounting error occurring which may be misleading.

It is not possible to subsume the financial reporting requirements of the Health Commission into those of the Department of Human Services through a simple mechanism, however. Instead it is necessary to transfer many of the functions of the Health Commission to the Minister who will have the ability to delegate those functions to the Chief Executive of the Department of Human Services. The Chief Executive of the Department of Human Services will then be responsible for financially reporting on the Department as a whole. The amendments contained in this bill will achieve these changes and reflect what is now occurring in practice.

The South Australian Health Commission is responsible for administering several other Acts within the Human Services Portfolio. This bill will make consequential amendments to each piece of legislation by substituting "Minister" for "Commission" wherever it appears and will make any associated changes. Consequential amendments are also made to other Acts or instruments under which the Commission currently has a role.

I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Amendment of s. 3—Objects of this Act

This is a consequential amendment.

Clause 4: Amendment of s. 6—Interpretation

A cross-reference to another Act is to be up-dated. A definition of 'the Department' is also to be included for the purposes of the Act.

Clause 5: Substitution of heading

Clause 6: Substituting of heading

These clauses make consequential amendments to headings.

Clause 7: Amendment of s. 8—Constitution of Commission

It is proposed to remove the distinction between full-time and part-time members of the Commission.

Clause 8: Substitution of s. 10

This is a consequential amendment.

Clause 9: Amendment of s. 11—Removal from, and vacation of, office

A notice of resignation from the Commission should be provided to the Minister.

Clause 10: Substitution of heading

This clause makes a consequential amendment to a heading.

Clause 11: Substitution of s. 15

Clause 12: Substitution of s. 16

The functions of the Commission and the Department (essentially represented by the Minister) have been reviewed. New section 15 is based on the functions of the Commission under the Act as it currently stands.

Clause 13: Substitution of s. 17

The delegation provision has been revised.

Clause 14: Amendment of s. 18—Appointment of advisory committee

Advisory committees will be appointed under a general power currently contained in section 18(1)*(d)* of the Act.

Clause 15: Substitution of Division

The staff of the Commission are to be persons assigned by the Minister.

Clause 16: Amendment of s. 22—Property

The Minister will now be the relevant party under section 22.

Clause 17: Repeal of ss. 23 and 24

Sections 23 and 24 of the Act are no longer relevant.

Clause 18: Amendment of s. 26—Annual report

Clause 19: Amendment of s. 27—Incorporation

These amendments are consistent with changes to the functions and role of the Commission.

Clause 20: Amendment of s. 30—Officers and employees

Staffing issues for incorporated hospitals under the Act will now be dealt with by the Chief Executive of the Department (rather than the Commission).

Clause 21: Amendment of s. 35—Annual report

Clause 22: Amendment of s. 36—Budget and staffing plans

Clause 23: Amendment of s. 38—By-laws

Clause 24: Amendment of s. 39—Fixing of fees

Clause 25: Amendment of s. 40—Power of Minister to require contribution

Clause 26: Amendment of s. 41—Duty of council to contribute

Clause 27: Substitution of s. 42

Clause 28: Amendment of s. 43—Application of contributions

Clause 29: Amendment of s. 45—Report of accidents to which this Division applies

Clause 30: Amendment of s. 48—Incorporation

These amendments are consistent with changes to the functions of the Commission.

Clause 31: Amendment of s. 51—Officers and employees

Staffing issues for incorporated health centres under the Act will now be dealt with by the Chief Executive of the Department (rather than the Commission).

Clause 32: Amendment of s. 56—Annual report

Clause 33: Amendment of s. 57—Budget and staffing plans

Clause 34: Amendment of s. 57AA—By-laws

Clause 35: Amendment of s. 57A—Fixing of fees

Clause 36: Amendment of s. 57C—Application for licence

Clause 37: Amendment of s. 57D—Grant of licences

Clause 38: Amendment of s. 57E—Conditions of licence

Clause 39: Amendment of s. 57G—Duration of licences
Clause 40: Amendment of s. 57H—Transfer of licence
Clause 41: Amendment of s. 57I—Surrender, suspension and cancellation of licences
Clause 42: Amendment of s. 57J—Appeal against decision or order of Minister
Clause 43: Amendment of s. 57K—Inspectors
Clause 44: Amendment of s. 58—Provision where incorporated hospital or health centre fails in a particular instance properly to discharge its functions

These amendments are consistent with changes to the functions of the Commission.

Clause 45: Amendment of s. 60—Industrial proceedings

Industrial issues will now be principally dealt with by the Department.

Clause 46: Amendment of s. 61—Recognised organisations
Clause 47: Amendment of s. 62—Duty of Registrar-General
Clause 48: Amendment of s. 62A—Notification of dissolution of incorporated body
Clause 49: Amendment of s. 63—Constitutions to be available for public inspection
Clause 50: Amendment of s. 63A—Conflict of interest
Clause 51: Amendment of s. 64—Duty to maintain confidentiality
Clause 52: Amendment of S. 66—Regulations

These amendments are consistent with changes to the functions of the Commission.

SCHEDULE 1

These amendments to various Acts are consequential to the changes to be functions of the Commission.

SCHEDULE 2

Clause 1 will expressly validate the appointments of the current Chief Executive Officer and Deputy Chief Executive Officer of the Commission.

Clauses 2 and 3 will facilitate the transfer of any staff of the Commission, and the transfer of property.

Clause 4 provides an additional mechanism to deal with references to the Commission in various instruments.

Clause 5 allows regulations to be made (if required) to address other saving or transitional issues.

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

CHILDREN'S PROTECTION (MANDATORY REPORTING AND RECIPROCAL ARRANGEMENTS) AMENDMENT BILL

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

ADJOURNMENT

At 11.10 p.m. the Council adjourned until Thursday 6 April at 2.15 p.m.