LEGISLATIVE COUNCIL

Thursday 16 November 2000

The PRESIDENT (Hon. J.C. Irwin) took the chair at 11 a.m. and read prayers.

SITTINGS AND BUSINESS

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

That standing orders be so far suspended as to enable petitions, the tabling of papers, question time and statements and matters of interest to be taken into consideration at 2.15 p.m.

Motion carried.

HAIRDRESSERS (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 14 November. Page 451.)

Clause 3.

The Hon. IAN GILFILLAN: I move:

Page 3, lines 8 and 9—Leave out these lines.

The committee will remember that when we were previously sitting as a committee I outlined the purpose of the amendment. It is consequential on the main purpose of the amendment, which is to delete the commissioner's power to determine arbitrarily what would be the conditions of registration for a hairdresser, and whatever requirements and qualifications needed would be spelt out in regulations. I will not go over that argument in detail again. I indicate to the committee that my three amendments are all linked to that one purpose.

The Hon. CARMEL ZOLLO: The Attorney-General would have noted that the Opposition questioned the comments in his second reading contribution that the apprenticeships scheme posed such a high barrier, hence our request that that statistical information be brought back 12 months later. However, I acknowledge that before sighting the Democrats' amendment, which I had not seen at the time I made that commitment, I indicated that we were happy with the Attorney's commitment. I must now apologise, because the opposition has decided to support the Democrats' amendments.

The Hon. K.T. GRIFFIN: It is disappointing that the opposition asked for an undertaking, which I gave, in relation to a review of the operation of that part of the bill which relates to the recognition of other qualifications in order for a hairdresser to be recognised by the Commissioner for Consumer Affairs. At the second reading I indicated quite clearly that we would certainly be doing that. I did not expect that there would be very many, but I indicated that nevertheless I was prepared to ensure that there was a report after 12 months of operation of this legislation. The proposal that the Commissioner for Consumer Affairs have power to recognise alternative qualifications, training or experience is based on competition policy principles and is designed to provide a measure of flexibility to the negative licensing scheme under the act. Currently, only those qualifications set out in the regulations entitle a person to practise as a hairdresser in South Australia.

I would suggest that there are a number of difficulties with this position. The first is that people from interstate or overseas competent to practise hairdressing are unlikely to hold the qualifications prescribed by regulation. If such people are unable to take advantage of mutual recognition arrangements, they will be precluded from offering their services unless they undertake a further course of study or pay for recognition of prior learning. In either case, the money they spend will be unnecessarily diverted from other sectors of the economy, where it could be more appropriately spent. It may be in only relatively small amounts but nevertheless it is an important issue that has to be taken into consideration. As a matter of principle, this situation is economically as well as socially undesirable.

The second difficulty is that the vocational education system is moving from a system of qualifications to one of competency. A system of competency is a more flexible system that recognises a person's ability to perform the work irrespective of where they obtained those skills. This differs from a qualification system to the extent that a person can obtain some of the necessary skills from one place, some from another, and so on. Under a qualification system, the skills are gained within the particular course undertaken. The bill will allow the Commissioner for Consumer Affairs to recognise the combination of qualifications, experience and training which would provide an applicant with commensurate abilities to those people who hold the qualification prescribed in the regulations.

As matters stand, all possible combinations of qualifications rendering a person able to practise hairdressing must be set out in the regulations. In the case of interstate and overseas persons, this is simply an impossible task. Further, by only setting qualifications, there is no current scheme whereby a person with skills obtained from a number of areas that make them competent to practise hairdressing can gain recognition of those skills. It would be very difficult to actively predict and then legislate for all possible combinations of skills.

The provisions of the bill are similar to provisions already contained in other occupational licensing schemes within the consumer affairs portfolio and also in other areas of occupational licensing administered by different agencies of government. Generally some flexibility is given to the registering authorities to recognise either prior learning or prior experience and alternative qualifications in order to then assess whether or not an applicant for a particular licence or registration has the necessary competencies to be so recognised. The amendments proposed by the Hon. Mr Gilfillan will deny the opportunities identified by the national competition policy review of the Hairdressers Act to remove unnecessary regulatory burdens affecting both consumers and suppliers of hairdressing services in this state.

Several other points need to be made. The first is that there has been no objection to the bill from the hairdressers association. I introduced the bill in July and sent copies of it to all the relevant bodies. There has been no complaint about it at all. I do not know where this motivation comes from. I suspect it is related to the big debate at the moment about the Land Agents Act and about the provision that has been in that act for a number of years, that there are two streams by which people can get to be a registered land agent. One is the so-called mainstream where, if a person wishes to be a land agent they can do a particular course which is focused upon being a real estate agent. It also contains a number of subject areas which are not necessary for qualification but which the industry says would be good to have as subjects within the

real estate industry, but they are not necessary in order to recognise the entitlement of a person to registration.

Then with land agents there is the alternative stream, and that has been in the act for some time. It has been used, and that stream enables the commissioner to recognise prior learning, prior experience or other qualifications. Again, it comes back to what are the core requirements to enable registration as a real estate agent. One needs an understanding and a competency in contract law, in real property and some other basic subjects, but also the competition policy review determined that one needs some skills in appraisal.

As I understand it, what is presently happening is that the relevant accrediting authority outside the state government has accredited the appraisal course for the Real Estate Institute as part of the course which it requires and which the Office of Consumer and Business Affairs requires applicants for land agent registration to get, among a number of other subjects. Under the review report in relation to real estate agents, which has been released, those with legal qualifications must gain qualifications in appraisal.

There has been some angst that the Law Society has set up a parallel course, and it is exactly the same as the course that is being run through the Real Estate Institute and through TAFE. As I have said on a number of occasions previously, the whole real estate agents' issue is a gross misrepresentation of the facts. It is being distorted by operatives within the Real Estate Institute and, if there is angst and concern about competition, it ought to be directed against the Real Estate Institute and not against the government, which in good faith endorsed a recommendation that had previously been agreed by the Real Estate Institute. That needs to be clearly understood.

That debate has focused the mind of the Hon. Mr Gilfillan on the issue of competencies, on alternatives to the mainstream means by which one is recognised in a particular occupation where there is a registration or licensing approach, and as a result of feeling compelled to move amendments to the Land Agents Act Amendment Bill, which deletes the alternative competency provisions that have been there for a long time, he feels he has to be consistent and argue that that also applies to hairdressers, to conveyancers and to a whole range of other people. I suspect that, when there is another piece of legislation that deals with occupational licensing, he will seek to put us into a straitjacket. That will mean that all those people who are quite deserving, who have got competencies, who will come from overseas—they might come from any of the continental countries, they might come from the United States, they might come from South America—will not be recognised under the mainstream means by which they can become registered as a real estate agent or, in this case, as a hairdresser, so they will be denied that opportunity unless they do the full hairdresser's course.

I do not think there is any justice in that. I think it is very shortsighted and it is a narrow political perspective that is being brought to bear by now the opposition as well as the Australian Democrats, and I think it militates against common sense and equity, particularly for those who might have the qualifications. Hairdressing is a universal skill. Right around the world people are competent as hairdressers and they qualify by doing various courses in most of the countries where hairdressing is regulated. It seems to me the height of nonsense to be arguing that we should not recognise their qualifications because they have not done the South Australian course. If they have not done the South Australian course but they are still competent, it is anti-competitive to say that, because their qualifications come from Canada, Italy, Greece, France or the UK, we are not going to recognise them because we believe that they have got to go through this process. The Australian Democrats and the Australian Labor Party have said that they will not recognise them.

The trend in Australia in relation to foreign qualifications is to find ways by which we can recognise them, not close them off. We would be going back 20 years if we thought about putting up these barriers. The Democrat amendment is anti-competitive. All the governments around Australia, both Labor and Liberal, have signed off on competition policy principles. We should remember that it was a Labor government that brought in competition policy principles and that it was a Labor government in this state which initially endorsed competition policy principles. Having done that, everyone has to live with the consequences. We may not like the consequences, but the fact is that we must live by them.

One of the consequences for state governments, particularly, is that if we put up even more barriers, even if we put up barriers in the parliament, as a state we may still lose competition policy payments. There is a carrot and stick there for us, and members have seen what has happened in Queensland in relation to sugar and New South Wales in relation to rice. When you put up a barrier, or if you will not remove a barrier, you will pay the consequences. I suggest that, while we have not raised this with the National Competition Council, it is one of the issues on which we will have to report when the annual reporting cycle commences. If we have to, the commonwealth may be persuaded by the National Competition Council to say that in this state, in every piece of occupational licensing where there has been a competition policy review, the state parliament is beginning to erect barriers.

I just think that it flies in the face of good sense and reason and justice for us to take this narrow-minded view in respect of those who enter particular occupations or professions by alternative means. I am disappointed that the opposition has now been persuaded, for some purpose of which I am not yet aware, that it should lock itself into something which is anti-competitive.

The Hon. IAN GILFILLAN: Since the Attorney-General has indulged himself with such a wide-ranging philosophical diatribe, I will take the opportunity to make a few comments in response. Any of the disadvantages he has outlined can be quite competently covered in a well-crafted set of regulations. He is saying that we should cock a snoot at this institution, which is the voice of the people in the parliament, to set out the criteria and that some individual, who arbitrarily will be able to make a determination day by day, should impose that criteria on the public. He thinks that is a great idea. He will not accept the fact that this parliament will be in a position to see, introduce and support regulations which will spell out the criteria that the commissioner will use to assess the competency of someone coming from overseas.

The regulations will spell out that language competency is required before a hairdresser who has qualifications from a country in Europe is turned onto the public without understanding what he or she has been asked to do. All that nonsense the Attorney-General has put up, as if we must tiptoe around in fear and trembling that we will lose our competition status because we have the gall to spell out in legislation or in regulations—

The Hon. K.T. Griffin interjecting:

The Hon. IAN GILFILLAN: The regulations must fit in to implement the spirit and intent of the act. That is part of

what the committee on which I sit aims to do. There is flexibility in the regulations, and there is intelligence in the way in which they are crafted. There is every reason to expect that properly crafted regulations will enable all the so-called difficulties which the Attorney-General keeps raising will be quite competently handled in a predictable manner.

The opposition has wisely realised that proper government, proper parliamentary exercise and confidence from the public will be based properly on regulation—written material that can be referred to. Therefore, I am very disappointed that the Attorney-General has taken this hysterical view to the amendments that I have indicated I will move when the appropriate legislation comes up. As a result, people coming from overseas and those who have had previous training and who ask to be accepted into certain practices and professions will have justifiable expectations.

The medical, dental and legal professions do not have some potentate they put in a position to say arbitrarily whether or not an individual can practise. This is totally unacceptable. I fail to see why the government is so hell bent on being locked into saying, 'We will deny the parliament through the exercise of proper legislation to determine how these people will make those judgments.' I think it is an insult that the Attorney-General is denying this place, through its proper structures, the right to determine how these decisions will be made.

I totally reject the Attorney-General's argument. I think it is spurious, and I do not think it has any influence at all on the way in which the competition assessment, as far as South Australia is concerned, will be determined. Therefore, I am very pleased to see that the ALP, which may well be the government in waiting, sees the wisdom of making sure legislation is properly debated and reflects through the proper processes the will of the people through the parliament.

The Hon. NICK XENOPHON: I have a question or two for the Hon. Ian Gilfillan. I have listened with interest to the debate and the Attorney-General's point of view. As I understand it, and perhaps the Hon. Ian Gilfillan can enlighten me, as always, in respect of his views on this subject—

The Hon. Ian Gilfillan interjecting:

The Hon. NICK XENOPHON: The Hon. Ian Gilfillan said that he can recommend a hairdresser: I think mine is qualified. I can understand the intention of the Hon. Ian Gilfillan from the consumer's point of view to make sure that someone who is allowed to practise as a hairdresser is properly qualified but, in the case of someone who has worked as hairdresser in Italy or Greece, is it not the case that what the Hon. Ian Gilfillan proposes could be unduly restrictive in the sense that it could lead to anomalies? They may have superb qualifications despite the fact they have not done the South Australian course. The honourable member is preventing those people who on the face of it are well qualified from practising as hairdressers, given that perhaps the regime the Hon. Ian Gilfillan is suggesting is too restrictive. I do not know; I want his views on that.

The Hon. IAN GILFILLAN: The drafting of the regulations, properly done, would identify and have the capacity to identify certain qualifications which would be recognised as starting points for accreditation. My view of the way in which the regulations would be drawn up is to analyse how the commissioner intends to make these judgments. If there is to be any responsibility in the commission, one would expect there to be a set of guidelines, at least in the person's mind. If that is not the case, we really are in chaos because that would mean that there is no determined pattern.

I see quite a lot of regulations, which can be quite expansive, and the qualifications which could be recognised by the association and the commissioner could be spelled out as a schedule in the regulations; and there may be extra qualifications which, after discussion, are required. It may include a practical test. I think the language factor is important. I am not so much drafting the regulations as indicating that we are not recognising in this debate from the contribution of the Attorney-General the flexibility of regulations. Provided they come within the power of the head act, they can cover those things about which the honourable member is concerned. So, anyone who can fairly be expected to practise hairdressing competently in South Australia would be able to comply with the reasonable requirements of the regulations and be registered.

The Hon. CARMEL ZOLLO: Having previously made comments in relation to overseas and interstate mutual recognition of skills, I think it important for me to place on record that the opposition agrees with the Hon. Ian Gilfillan that we want to see properly crafted regulations emanating from this parliament to enable those people who are recognised to practise their skill of hairdressing in South Australia.

The Hon. K.T. GRIFFIN: What is confusing about this is that the Hon. Mr Gilfillan—and the Hon. Carmel Zollo, according to what she has just said—want a set of regulations which specify all the possible variations in qualifications of competency that might be recognised—just in case someone comes from Italy, Kosovar or wherever—but to leave in the regulations a discretion on the part of the Commissioner for Consumer Affairs. For a start, the act does not provide for a sub-delegation by regulation to the commissioner, so that would have to be inserted. I cannot understand why the Hon. Ian Gilfillan wants to give the commissioner a discretion in a regulation, yet he is not prepared to give a discretion in the act itself. That is partly what it is about.

If the honourable member believes that we will be able to cover every eventuality by drafting some 'you beaut' regulation, he is very much mistaken. I can cite a number of examples where difficulties might arise. For example, a person may be a qualified hairdresser in Canada, but that qualification might have been gained as a result of recognition of experience as well as some subjects studied, and it may be that those subjects are not on all fours with the subjects that are required to be studied here.

The whole object of the bill is to allow the Commissioner for Consumer Affairs to look at all the qualifications which that person brings, recognising that that person will not have the right to be registered and will not be able to satisfy the South Australian educational and competency requirements but will be equally competent and trained in Canada. They will be entitled to practise hairdressing there, presenting no risk at all to the public, but they will not be able to be registered here unless we can anticipate all the variables which might need to be taken into consideration in dealing with the qualifications of this Canadian who has migrated to Australia, wants to be a good citizen, but now has to go back to do not just one subject but all the subjects in the hairdressing course in order to be recognised under the act, because he or she does not come within the precise details and terms of this regulation.

How many nations of the world are there? There are 147. People from all those countries will not want to come to South Australia, but there is a huge number of different nationalities living here, not all of whom will want to be hairdressers and not all of them will be competent to do so

even though they might have practised hairdressing in their home country. Somewhere along the line some discretion must be built into this legislation to enable the commissioner to say, 'Yes, this person has the necessary competencies to be able to practise in South Australia in a way which does not present any risk to the community.'

The amendment provides that 'the commissioner may, on application under this section, determine that the applicant has qualifications, training or experience that the commissioner considers appropriate to carry on the practice of hairdressing'. That must be determined in the context of the whole of the act. It cannot be determined by putting the act to one side and having no regard at all for the fundamental competency requirements to practise in South Australia. It must be consistent, but it must give flexibility.

It seems to me that there is some good sense in being able to do that rather than saying, 'As a government we will look at where the majority of our population comes from. We will anticipate that maybe someone from that country will want to do hairdressing. We will enact that in the regulation just in case.' You will end up filling the regulation with a variation of requirements from about 50 countries. It may be that you will have to go back some years to recognise qualifications which have been achieved by someone who might have done so 10 years ago but where the course in that country has actually changed.

I am not cocking a snoot at the parliament. If the parliament does not want to do it, then we have to live with it. That is part of the democratic process. All I want to do is persuade the Council and the parliament that what we are providing for is common to a whole range of occupational licensing legislation. It has not created a problem for us until now. It is provided for in a lot of interstate occupational licensing legislation, and that is because we are moving more towards mutual recognition. If you do not have a registration requirement in Queensland, for example, mutual recognition will not apply in South Australia where you do have at least a negative licensing requirement. So, a person from Queensland will not be able to be recognised in South Australia because there might be no specific provision for that.

It may be, though, that we can deal with the Australian situation by passing a regulation which says that, if you practise as a hairdresser in Queensland, even though there is no registration requirement, you are entitled to practise in South Australia. However, that is difficult, because you do not know whether they have the same or similar qualifications as those who have gained their qualifications in South Australia. What the amendment in the bill seeks to do is to provide, in a way which provides us with an equitable and fair approach, a sensible and rational approach to the recognition of other qualifications which might, or most likely, have been gained outside the state, even outside the country.

The whole issue is clouded, I suspect, by the big debate about the real estate agents. Sure, they are putting a bit of political heat on members, but the Real Estate Institute has a lot to answer for. If you think that that will colour members' views—although I recognise the argument about consistency, which the Hon. Mr Gilfillan may be persuaded needs to be followed—on the other hand, I think it is a bad precedent. It is anti-competitive.

With respect to members who might have an interest in a multicultural society, in being fair and recognising qualifications from other countries which are at least the equivalent of ours, I think it is a bad amendment and that it sends all the wrong signals to people who have come to South Australia from other parts of the world. These people have competencies in particular areas, whether hairdressing or otherwise, and ultimately we will say, 'You can come to South Australia. We know that you might have been competent in your country, but our parliament says that we are not going to recognise your qualifications even though they are the equivalent of what we have in South Australia.' It just does not make sense to approach it in this way.

I ask the Hon. Carmel Zollo: is the Labor Party really serious about saying that it does not want to recognise in this alternative way (the only way) qualifications of people who come from other countries? If that is the way the Labor Party wants to play it, let us have it on the record and let us indicate quite clearly that that is the Labor view. And that is the Democrat view—forget about what you are qualified or competent to do in your own country, forget the fact that you might be a refugee and that you have learned English and can communicate effectively; forget all of that—because you have not got your qualifications in South Australia then we will not recognise you. I think that is a very poor example—

The Hon. P. Holloway: What about doctors?

The Hon. K.T. GRIFFIN: The same applies to doctors. I do not know where the recognition of foreign qualifications is with regard to the medical profession. It is a very strongly held view of pharmacists or doctors who have come from other countries and who do not come from an English speaking background that, in many instances, they believe that they are equally competent to practise.

The Hon. P. Holloway: They are not allowed to, though.

The Hon. K.T. GRIFFIN: I understand that there is now more flexibility in recognising some of those qualifications. Although what the Hon. Mr Gilfillan says is theoretically possible—that we anticipate every variation of qualifications that might be recognised—I suggest that that is likely to create significant difficulties. We will then get down to technical arguments about what the regulations actually mean—does this fall within the regulations and does that not fall within the regulations? When we come to weigh it all up, it will not be worth the hassle to draft comprehensive legislation. It will not be worth the hassle getting involved in litigation about whether this person falls within that description and this person does not, or this person is outside it because we have not drafted it properly. We might come back with an amended regulation to deal with that particular person's problem and find we have problems with others. So I ask the Hon. Carmel Zollo whether that is what the Labor Party stands for and, if it does, I will be the first to tell people that the Labor Party is not serious about justice and equity when it comes to recognising other qualifications as a basis for carrying on a profession, business or practice in South Australia.

The Hon. CARMEL ZOLLO: What has happened up until now with respect to the recognition of skills acquired outside South Australia?

The Hon. K.T. GRIFFIN: Registration is required at least in Western Australia and New South Wales, and I do not have at my fingertips the details of the other jurisdictions in which registration is required. But registration is required the Mutual Recognition Act allows that person to be registered in South Australia, although there is a question mark about that because ours is a form of negative licensing: you cannot carry on the business of being in trade as a hairdresser unless you have minimum qualifications, and I think there is

probably a question about whether or not that satisfies the Mutual Recognition Act.

But supposing it does, if you have recognition registered in another jurisdiction you are then entitled to be registered in South Australia. That does not apply where there is no registration in another jurisdiction in Australia. If there is no registration then there is nothing mutually recognised, so at the moment that person would have to qualify under the mainstream provisions of the Hairdressers Act. If you come from overseas you really have to do the course. At the moment there are two ways in which you can become qualified if you are in South Australia, and that is that you do either an apprenticeship comprising various modules in a training institution or the TAFE course with some experience.

If the Hon. Mr Gilfillan thinks that we will be able to identify all the variables, let me give him a list of what is required. Currently a person must complete 14 modules in the approved training courses to meet the requirements for award. The module 'Personal Projection' has the required competencies of orientation; personal grooming; hand and nail care; body hygiene; wardrobe/accessories; visual impressions; personal health/hygiene; posture requirements; occupational health and safety; OH&S rules/regulations; sterilisation/ sanitation; tools/equipment workplace; first aid; care and maintenance of tools of trade; use, storage and handling of hazardous substances; protective clothing and substance in the workplace; and human relations in the workplace.

The next module, 'Workplace Requirements', has the required competencies of methods of communication; verbal communication; non-verbal communication; communicating salon service; communicating for workplace cooperation; reception; telephone communication; and consultation. Then there is the module of anatomy and physiology where the competencies required are human body cells, skeletal system, muscular system, nervous system, circulation system, nutrition, the skin, the hair and skin and scalp disorders. The next module is hair dressing science, where the competencies required are chemistry defined, elements and compounds, acidity and alkalinity, physical and chemical substances in hair dressing, physics, perming/straightening chemistry and colour chemistry. The next module is consumer relations, where the competencies required are communication, client expectations, consultation and evaluation of service. Under competency—tools of trade equipment, one is required to be competent in equipment and the tools of trade. Treatment of hair and scalp is the next module title—

The Hon. Ian Gilfillan: Are we waiting for Terry or are you just entertaining us?

The Hon. K.T. GRIFFIN: I am doing something practical by telling members what the facts are.

The Hon. Ian Gilfillan: Why don't we just adjourn this instead of hanging around waiting for one member?

The Hon. K.T. GRIFFIN: I am trying to give you a sound argument as to why what you propose is just impossible.

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: We might report progress in a minute, but what the honourable member is saying is blatantly wrong. The honourable member is saying that we should forget that you can have these competencies in other ways and that there is an alternative means by which these people can be recognised. In South Australia you have to have these competencies if you want to be recognised in this state. I am not filibustering. I am giving some examples of the modules which are required. If you come from overseas it is quite likely that you will have different experience but are equally qualified to be a hairdresser.

The Hon. CARMEL ZOLLO: With all due respect, surely the regulations can say that you need to site an appropriate certificate, diploma or whatever from another country which says that you have already qualified in those competencies. I agree with the Hon. Ian Gilfillan that we are wasting time.

The Hon. K.T. GRIFFIN: If the honourable member thinks it is a waste of time trying to deal with equity and justice then that is fine: have it on the record. However, the fact of the matter is that, if you do not gain these competencies in South Australia, you cannot be registered. The point of the amendment which is in the bill is that there are alternative means by which you can have your competencies in these or similar areas recognised so that you can be a hairdresser and recognised as such in South Australia.

If honourable members are bored by this, that is too bad, because I am trying to help them understand what they are trying to do. The Hon. Carmel Zollo is objecting to some of the facts being put on the table. The fact of the matter is that, if you do not have these competencies which are specified in South Australia and you come from overseas, that is too bad—you have to do the course. You must either go to TAFE and do the work experience or you have to be an apprentice and do the additional academic study which attaches to it. There are 14 modules. The next is treatment of hair and scalp. I will not go into the required competencies because they are all set out quite clearly in the appropriate—

The Hon. Ian Gilfillan: Is there anything there for neck massage?

The Hon. K.T. GRIFFIN: If the honourable member wants to be facetious about it, that is fine.

The Hon. Ian Gilfillan: You are going through all the detail anyone would expect to be part of a hairdresser's training anyway.

The Hon. K.T. GRIFFIN: Hair design and styling, hair colour, perming and straightening, cutting, everyday business practise and retail service. I can go through them again if you want me to.

The Hon. Ian Gilfillan: No thanks. I plead mercy.

The Hon. K.T. GRIFFIN: I am always prepared to be merciful.

The Hon. Ian Gilfillan: We will be sitting after 12 o'clock if we do not move on.

The Hon. K.T. GRIFFIN: The more we banter the more time the honourable member will waste. We can come back to this just before lunchtime and address the issues; if not, we will put it off and do it the week after next. If there are people who want to become hairdressers and who have all the other requirements but cannot be registered in South Australia because of the anti-competitive restrictions of the act, well so be it. I can see that the Hon. Carmel Zollo is anxious to get on her feet and make some observations. Let her do so.

The Hon. CARMEL ZOLLO: Are you suggesting it is not possible to put in some regulations that we could recognise either interstate (although I think we recognise interstate qualifications, anyway) or overseas skills if somebody produces a diploma? Are you suggesting we cannot do that? I think we could.

The Hon. K.T. GRIFFIN: I do not think we can. With the case of hairdressing, if you can identify all the diplomas around the world—or from those countries from where most of our immigrants come (and we are talking internationally here)—and the qualifications required to practice as a

hairdresser in each of those jurisdictions, you can then set them out in the regulations. However, it is a huge task. It can then be a question that, if the person has all those, is it going to be adequate to be recognised in South Australia? It may be that those qualifications will take that person a significant part of the way but, looking at those qualifications obtained overseas, the commissioner may say, on the basis of what is required here, 'You do not have a competency in x, y or z and, although I am prepared to recognise everything else that you have, you still have to do these modules. If you do these modules, we can recognise it.'

The regulations cannot anticipate the likely variations and discretion cannot be put into the regulations—giving discretion to the commissioner—because, effectively, that is what you are doing in the amendments in the bill. It is a matter then of a sub-delegation to the commissioner which, unless there is a specific power in the act allowing it, will not stand up to proper scrutiny.

Progress reported; committee to sit again.

SOUTH AUSTRALIAN PORTS (DISPOSAL OF MARITIME ASSETS) BILL

Adjourned debate on second reading.

(Continued from 15 November. Page 518.)

The Hon. P. HOLLOWAY: Last evening before seeking to conclude my remarks, I pointed out how the Olsen and Brown Liberal governments have, over the past seven years, sold about $7.5 billion of state assets. The point I was making is that the argument that this government has used in selling those assets has changed from time to time. We were told, in relation to ETSA, that we had to sell it because it was too risky. But, as I pointed out last night, in relation to the ports we are told that we have to sell them because they are not risky enough.

The Minister for Government Enterprises told us that the ports are now mature, that they have got through their risky phase and, in this mature part of their life, we should sell them to provide new opportunities for private business. I pointed out how totally inconsistent—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: There we have it. The Hon. Legh Davis has absolutely no idea. This mob will twist, weave and duck, but there is absolutely no consistency about them whatsoever. In one case we have to sell it because it is too risky and in another case we have to sell it because it is not risky enough. I also pointed out last night how the minister who is responsible for this sale, Dr Michael Armitage, has spent $10 million on government to government water investment in Indonesia. How is that for consistency? This Liberal government has no consistency whatsoever. No wonder the Hon. Legh Davis is embarrassed by it, as he ought to be. When he makes his contribution later we look forward to his telling us how the $10 million that has been spent in a water company in Indonesia is consistent with this government's policies in terms of reducing risk.

I also wish to make one general comment in relation to the asset disposal sales. If one were to take the logic the Treasurer used in question time yesterday then every South Australian who has a mortgage should sell their house, and every South Australian with a car on hire purchase should sell it and pay it off, because that way we would all be debt free. We would not have any assets, and of course we would have the minor inconvenience of having to rent a house or perhaps use taxis and so on, but this is the logic.

So this government's whole justification for its asset sales program is based on this bottom line figure—'Look, we've reduced debt.' Every home owner knows that this is not just a simple equation; otherwise, every South Australian would sell their house to reduce their mortgage. That way they would be out of debt, but they would not own a house. That is the logic that underpins this government, and it is nonsense. In relation to any sale, the point I was making last night is that the public of this state has every right to expect that when their assets are being sold they get presented with a decent economic case as to why it should be done, and that has not been done by this government.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order.

The Hon. P. HOLLOWAY: We have had absolutely no justification whatever; no economic case has been made out by this government in relation to the sale. Last night I pointed out some of the pitiful information that had been given by the government in relation to these sales. Last night I quoted some of the extraordinary information this government had put out. It would not give us a detailed economic analysis of the benefits or otherwise of the sale of the ports. Even in relation to ETSA at least some attempt was made to do that, but there was nothing at all in relation to ports. Instead, we got this drivel called 'Frequently Asked Questions', an information paper that Dr Armitage put out last year. There are some real beauties here:

> How much will the consultants cost the taxpayer, and does it compare with the cost for the ETSA consultants?

This is an information kit to the public. It is a fair enough question, and this is the answer:

> The government does not intend to divulge the cost of the principal consultancy, but we may be able to talk about the total cost of all consultants at the end of the process.

I stress 'may'. If we are lucky enough they might happen to tell us what it cost at the end of the process—subject, of course, to commercial confidentiality. That is one example of the information we have received. There is no detailed economic analysis of the benefits of selling the ports or the benefits that might accrue to the state as a result of keeping the ports. There is none of that basic information: just this sort of drivel. Here is another question:

> Can you give the consultancy costs as a percentage of what the government expects to get for Ports Corp? The figure between 1 and 2 per cent has been talked about for ETSA. Will this still be the same?

This is the answer:

> The government has not put a figure on what we expect for Ports Corp, so to discuss percentages is premature. However, I understand that between 1 and 2 per cent is about par for the course—much cheaper than selling your house, in fact.

So, maybe when we are all selling our houses to reduce our debt, we can feel good that it might be cheaper. There are no questions about what the ports are worth or whether it is in the best economic interests of the state. There are no answers to those. Here is another:

> Will the Ports Corp consultants be put up in the Hyatt at taxpayers expense?

The answer:

> The accommodation will the their choice, but the government has capped the cost at a modest level, and if they choose to stay

somewhere that costs more than the cap then that will be at their expense, not the government's.

Again, that is nice to know, but it is not really the sort of information that this parliament is entitled to get to consider this matter properly. It is not the sort of information that any parliament in this country would get.

That is the key point that needs to be made in this debate. We are talking about selling an asset that is probably worth about $150 million to $250 million—somewhere in that ball park. It is an asset which, if it is not a monopoly, certainly has key elements of monopoly in it. It is a significant asset for this state which produced about $14 million of profit in the last year, plus several other million dollars that are paying off interest on the Port Corp's debts. So, we have this asset that is worth that amount of money. I cannot think about a situation anywhere in this country where a decision to sell such a significant asset would be treated in the fashion in which this has been treated.

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: Of course, as the Hon. Trevor Crothers just interjected, many key issues must be associated with a ports sale, such as the future of the deep sea port. Many of these issues need to be considered as part of the sale. I suggest that in no other parliament in this country would such major decisions be made on the basis that they have here, a series of deals outside parliament. I suggest that a decision of this kind taken in any other parliament would be the result of considered public consultation, such as a royal commission.

In the past, major public inquiries always underpinned significant decisions about state development. Fancy taking a decision on the future of something as important as the ports of this state on the basis of a whole lot of deals to satisfy various interest groups, and I will come to them in a moment. Surely something as significant to the future of this state should be made on the basis of a considered public process.

Another matter I wish to mention from the frequently asked questions about the ports sale concerns this question:

> Can you provide a ball park figure of what you would like to realise from this sale?

The answer is:

> The government is not going to give a ball park figure, because that would be like telling everyone what price you will settle for before an auction starts.

Fair enough. But then there is this part:

> We don't have a reserve price set down.

That is the significant part I want to mention. 'We don't have a reserve price set down.' What does that mean? That means this port will be sold at whatever price the government can get for it. How irresponsible not to have a reserve price and not to know what our ports are worth. How totally irresponsible and negligent. No wonder the Hon. Legh Davis is ashamed of his government—as he ought to be—not having a reserve price on the sale of a key asset such as this. How absolutely ridiculous.

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: No wonder members opposite are ashamed of their process throughout this, and of their minister who, while he is selling a key asset such as this, is off investing over $10 million in a water company in Indonesia. No wonder they are ashamed of it—and they ought to be.

The Hon. Diana Laidlaw: This is just political.

The Hon. P. HOLLOWAY: Whether or not it is political I will let others judge, but it is certainly absolutely true. In considering the sale of our ports it is important that we should consider what has happened in Victoria. We followed them in relation to the sale of our electricity assets and in relation to the outsourcing of public transport and other issues, but what did Jeff Kennett decide to do in relation to ports?

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: I remind the Hon. Legh Davis that the matter before us is the sale of the ports. We are considering the ports here. Jeff Kennett decided that he would have competition in the ports, so he sold his regional ports. He sold the ports of Portland and Hastings (Westernport). However, he did not sell the port of Melbourne. He did not sell the main container terminal in Melbourne. In addition, although the ports were sold, he retained a channels authority so that the major channel out of Port Phillip Bay was kept in government hands. That is a point that those opposite who have been such dutiful followers of the Kennett philosophy, at least until he lost the last election, should consider. Why was the sale of the port of Melbourne container terminal too much of an anathema even for Jeff Kennett? When one looks at the importance of exports to this state and the future of the container terminal, we might well understand why.

I noticed in this week's *Age* that Premier Bracks in Victoria is investing $100 million in the upgrade of the port of Melbourne to make it more competitive. The upgrade of the port of Melbourne will make the situation even more competitive for our ports. The problem is that any upgrade for our ports will have to come from the sale proceeds. What happens when the sale proceeds are gone? As I pointed out last night, what is so embarrassing to the Liberals is that privatisation in this state is now coming to mean an excuse for government subsidy. We did it with the airport. What could be more profitable than our airports? We sold them at federal level.

The Hon. Diana Laidlaw: Who sold what? The federal government?

The Hon. P. HOLLOWAY: Yes, as I pointed out last night, the Labor government sold it.

Members interjecting:

The Hon. P. HOLLOWAY: Yes, it did. But now the state Liberal government is subsidising the private operator by paying for development. What will happen with the ports? We are going to sell the ports. Who will pay for the development of the ports? It will be taxpayers through the proceeds. A great nonsense in this debate is that we have to sell these things to get private investment. That is the argument that they have used: we have to sell it so that we get private investment. Although we sold the airport, we now have to expend state taxpayers' money to develop it. What will we do with the ports?

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. Cameron: The federal Labor government sold the airports.

The Hon. P. HOLLOWAY: I told her that. We will have to use the proceeds of the sale of the ports, and that is a nonsense. It is a nonsense to suggest that private operators will invest in the ports. They will come to the government, so we lose out both ways. We will lose ownership of the ports and we will have to pay for any upgrading. That is something that everybody needs to consider.

Let us look back at the history of this sale process. In 1996, a study was done by the Ports Corporation into the valuation of our ports. In February 1998 this government,

through Minister Armitage, announced a scoping study but, as I pointed out last night, we have not seen any information in relation to that. Whereas with ETSA at least some attempt was made to provide an economic case and some information was provided, absolutely no information is available in relation to the economic case for selling the ports.

While the scoping study for the sale of the ports was going on, the deep-sea port investigation was being conducted. For some years now the grain industry has correctly been looking at the future of grain sales out of Port Adelaide. This state does not have a port to the east of Port Adelaide. All the grain that is produced in the Murray Mallee and Upper South-East and much of that from the Lower North of the state is shipped out through Port Adelaide, and it is important. The size of ships has been increasing, and increasingly more grain is shipped out through panamax vessels, those of 60 000 tonnes, and there is an increasing need to accommodate ships of that size in the future. That report was going on simultaneously with the ports sale.

When the government initially announced this sale, it was to be a sale right across the board. No consideration was given by this government to following the pattern set in Victoria, namely, to separate out the rural ports from the main container port, and so on. If this government had decided that it was going to bundle up the grain ports and consider selling them separately, perhaps to AusBulk, one could perhaps see the logic behind that. After all, these ports are monopolies and their only use is to ship out grain. If these ports were to exploit their monopoly power, who would suffer as a result of that exercise? It would be the same shareholders who would own the ports; in other words, the grain growers. I could at least see some logic if the government thought it would separate out the grain ports and look at them individually.

Similarly, it seemed completely illogical that, in the first instance, the government would want to include the sale of Kangaroo Island ports, because that was part of it. When this proposal was originally put forward, the minister was doing a scoping study and it was intended to bundle all the ports together—ports as diverse as the major grain ports of Port Lincoln, Wallaroo and Port Giles were to be bundled in with Kingscote, Cape Jervis and Penneshaw.

A number of objections arose to this proposal from various interest groups. First, the grain industry could see that its interests were not being looked after. When the government brought this sale bill before parliament earlier this year, it passed the second reading stage in the House of Assembly without any provision being made for the grain ports. It was only because of the opposition of the grain industry and the opposition in this place that the government was forced to consider this whole issue in the first place. As I pointed out last night, it is not even resolved to this day. Some provisional plans have been rushed together to try to get this through, but the whole issue about who might operate this new grain terminal at Outer Harbor is still not resolved as we speak, with a week or two to go before this legislation is due to be passed by the parliament.

Let me return to the Kangaroo Island issue, because that was one that the government had to face at the time. To show how much it had considered the project when it was first put forward in August last year, I will refer to one of the frequently asked questions, as follows:

> Will the government consider Kangaroo Island as a special case in the sale of the Ports Corporation and possibly consider selling the ferry ports at Penneshaw and Cape Jervis separately? Is the minister aware that islanders believe their sea route should be considered in the same way as roads and therefore treated as ordinary road transport corridors provided by the government?

This is what the government said in August 1999:

> What the government is talking about in the sale plan is the port infrastructure at Penneshaw and Cape Jervis and the business Ports Corp does with Sealink and other users. These cannot be considered the same as an arterial road.

Subsequent to this, the ports at Penneshaw and Cape Jervis have been taken out of the sale process and transferred to the Department of Transport. I will read on from this answer:

> On the matter of the sale, the plan allows for consortia to be formed to enter bids and these consortia could include interests that might have a special and separate interest in the Kangaroo Island ports and Cape Jervois. There is nothing to prevent the formation of bidding consortia.

In other words, let the market decide. That was this government's view in August last year. Further, it states:

> There is also nothing to prevent the successful bidder deciding to sell off parts of Ports Corp once it is in their possession with any subsequent owner continuing to be bound by any regulatory or other conditions imposed by the government in the sale. The government will review during the sale preparation phase the possibility of restricting the types of organisations that could own the Kangaroo Island ports.

The answer goes on to say:

> The other important points to remember about the Kangaroo Island situation are: Kangaroo Island freight transport is already subject to price regulation and this will not change; the Trade Practices Act will apply to the purchaser and will help to prevent anti-competitive activities from occurring. As part of sale preparation it is likely that any non-commercial services will be retained by government as community service obligations, otherwise they can be placed under service contracts with the purchaser that allows the government to subsidise non-commercial services or achieve community equity objectives. An economic regulatory regime for access to pricing is planned and this will prevent of abuse of market power through the monitoring and regulation of prices and access to facilities. It will also enable independent dispute resolution where commercial negotiations fail.

I cite that to point out that this government was prepared to sell the entire ports. It was prepared to completely leave the people of Kangaroo Island at the mercy of private owners. Of course, the government had to reverse that because of the political pressure. The fact that it could even contemplate this at the beginning of the sale is a fair comment on the capacity of the Minister for Government Enterprises and his ability to effectively handle this sale.So, as a result of the protest, the original project had to be changed in relation to Kangaroo Island.

When the bill came before parliament earlier this year, we found that, after having passed the second reading stage, the government then had to take it from the agenda. Finally, the concerns that were outlined by the opposition, the grain industry and others in relation to the future of our ports forced the government to consider the issue rather than just go ahead to a sale and leave this issue up in the air. Of course, we know what has happened. We know that the minister in trying to get these votes has made all sorts of deal. We have seen the proprietary racing bill before us in this Council to ensure the support of the National Party.

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: As I said, he has made a series of deals.

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: Well, I will if I get the opportunity to do so. We know there was a dispute in cabinet between Minister Kerin and Minister Armitage. We know

what was going on between those two ministers in relation to the future of the grain ports. As the shadow minister for primary industries, I was regularly in contact with the grains industry.

Members interjecting:

The Hon. P. HOLLOWAY: The government has done a series of deals or a series of arrangements. First, it had to do the deal in relation to Kangaroo Island; it had to do the deal with Sea-Land because it had not thought through that situation either; and it had to do the deal with the Independents to try to get the vote.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: But the point is that this government did not think of any of these things at the start. It has not put a detailed case at any stage as to why we should sell the ports.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: The Hon. Legh Davis is, no doubt, ashamed of his government and when he speaks on this bill, because of his ideological predisposition, he will no doubt attempt to justify this sale.

Members interjecting:

The PRESIDENT: Order! The Hon. Paul Holloway will come back to the bill.

The Hon. P. HOLLOWAY: But the one thing that the Hon. Legh Davis will not be able do is to provide the economic case for it, because the facts are not available; they are not out in the public arena. We had a dispute over the question of the future of the grains port. As I say, that issue is still not resolved. What happened was that, when the Deep Sea Ports Investigation Committee reported back in January 1999, it made a series of recommendations, one of which was for the deepening of Port Giles for panamax vessels. Of course, the main recommendation in relation to Port Adelaide was that the channel down to the grain terminal in the inner harbour at Port Adelaide and the turning area should be deepened to accommodate panamax vessels.

The report of the deep sea committee gives quite detailed information about estimated costs, and so on, of those works. I can recall meeting with people from the grain industry at the time when I was shadow minister for primary industries and asking the question: this proposal is for deepening the harbour to allow ships to come to Port Adelaide; have you considered the option of moving the terminal to Outer Harbor? Has that been considered? It was a fairly obvious question, I would have thought. They said, 'Yes, we have done it. We have done our costs. But they do not stack up'. Those same people have now changed their mind. The fact that they were so convinced at the time that it was not an economically viable option leaves me to doubt what the real situation is.

When the debate over the future of the grain terminal was occurring within the cabinet and government in July this year, the government decided, at long last, some 18 months into the sale process, to look at this and to find out what the real situation was. The government invited PPK consultants to do a review of the dredging options for the Port River. The full report has not been made available, but on the government's web site there is, at least, an executive summary of this report. What was found in relation to the future of the port? In relation to the contamination issues—and it was always known that would be an issue if you were to dredge the harbour of Port Adelaide—the report states:

> An assumption has been made that the identified Penrice material within the proposed dredging limits of the river will be removed prior to any dredging program. All other available results indicated that the concentration of all parameters analysed were suitable for disposal both on land and at sea.

So, in relation to some of the environmental issues, I think that is an interesting outcome. I understand there were a couple of samples where there were high levels of contaminants (which is hardly surprising in relation to the Port River) but of course those contaminants would still be in the river. If we dredge it, at least they will be removed. What about the costs? The finding in the executive summary states:

> The costs nominated below do not allow for subsidisation by contractors. Therefore, if there is any variation in dredging price they are expected to be less than the prices estimated within this section.

In other words, the estimated costs in the PPK port are upper limits and they could be significantly less. Also in this report, there is an estimate that these results could be place or minus 10 per cent. One has to take the uncertainty into account. The costs and durations assumed and estimated for the dredging work were as follows:

> Onshore disposal using hydraulic dredging methods is estimated to cost $60 million . . . Offshore disposal using hydraulic dredging methods (to a distance of 15 kilometres) is estimated to cost $29 million and take up to 40 weeks for completion. A combined offshore and onshore (maximum of 500 000 cubic metres disposal) is estimated to cost $34 million with sea disposal to a distance of 15 kilometres and take up to 40 weeks for completion.

The estimated cost for offshore disposal was $29 million; for offshore and partially onshore disposal it was $34 million. Against that, the original deep sea port estimates were about $15 million for the cheapest form of dredging. Certainly, that report, as preliminary as it is, and given the fact that the actual estimate could be cheaper, suggests that perhaps there could be a $15 million difference.

However, what we need to understand is that what the government is proposing is taxpayer expenditure of $30 million to $35 million to be paid for out of the proceeds of the sale on public infrastructure in relation to the port. The grains industry would also be up for about $40 million of its own money to build a new grain terminal at Port Adelaide. I therefore ask: does that really mean that the option of a grain terminal at Outer Harbor versus the dredging of Inner Harbor has been properly considered? I think that we should all consider that matter.

Of course, that does not even consider a third option (which the government was considering at one stage) to deepen the turning circle in front of the grain terminal to accommodate panamax vessels but leave the terminal so that you could take those ships out at high tide, partially filled, and then top them up on the way. Under that option, there would at least be some accommodation of panamax vessels. That would be a far cheaper option, and it would not involve the grains industry in having to move the infrastructure from Port Adelaide.

There are many other questions hanging over this new Outer Harbor option, quite apart from the question of who will control the new terminal, which has not yet been resolved. There is also the issue of how to get the grain through to Outer Harbor given the existing constraints on our rail and road system in Port Adelaide. What this will mean if we go ahead with upgrading the terminal at Outer Harbor is that, when large vessels are to be loaded, because of the low capacity of the new terminal there will be dozens of trains 24 hours a day going into Port Adelaide. Given the current limitations, they will have to go right around through

the heart of Port Adelaide, at least until the third crossing over the Port River is completed, and the residents of Port Adelaide will have to put up with an incredible level of nuisance. That is obviously a considerable issue for the people in that area.

Regarding that matter, it is interesting that in one of the question and answer kits that the government put out early in the sale process the question was asked:

'How will the sale of Ports Corp impact on the planned third crossing over the Port River? Will it delay or prevent the crossing's construction?'

The answer was:

The proposed sale of Ports Corp will have no impact on the third river crossing proposal. Ports Corp is already planning the changes necessary to accommodate the bridge, and this will continue regardless of the sale plans.

I might say that this was all done when the government had no idea that it was going to build this new terminal at Outer Harbor. That has come up only in the last couple of months. It continues:

In fact, the bridge has the potential to increase the value of Ports Corp because it will make the road journey to Outer Harbor and the west side of the Port River shorter and faster for a lot of heavy goods traffic.

If that is the case, if the bridge has the potential to increase the value of Ports Corp, why in the interests of the taxpayer is there not some guarantee for the bridge construction being made part of this process as well? We have everything else in there, but if it is going to increase the value why do not the taxpayers get the value of that by ensuring that the bridge is part of the process? At the very least, it would give some mercy to the residents of Port Adelaide who will have 900 metre trains going past their houses 24 hours a day under the current arrangements.

One of the other comments that I would like to make in relation to the option of dredging the current channel, which has now been dismissed by the government, is that one side benefit that needs to be brought into the equation is that not only would it mean that the grain operations would be able to continue at Gillman on the eastern side of the Port River (therefore, well away from residential areas), but the dredging of Inner Harbor would open up a lot of industrial land on the eastern side of the river between the grain terminal and Barker Inlet and Torrens Island, which could have significant benefits in the long term for this state in terms of making land available that will have access to a deep port.

I mention all these issues to point out the fact that this government has not considered them as part of the equation to sell the ports. Instead, it has tried to stitch up a whole lot of deals to get the votes through parliament rather than look thoroughly and comprehensively at the future of our ports and how we can best deal with them. As I said, a number of options in my view have not been properly considered within the whole debate.

What else did the government have to do? Of course, it had to reach an accommodation with Sea-Land. In fact, it finally decided that it had to extend the lease for Sea-Land. I point out that the introduction of Sea-Land as a stevedoring operation happened under the previous Labor government. I think we can proudly say that we have in this state one of the, probably the, most efficient port in the country. I do not think anyone would criticise the performance of Sea-Land over the past seven or eight years. It is interesting that Sea-Land wrote to me—and, I assume, to all members of parliament—in August this year about another matter: the stevedoring levy. I would be interested to hear from the minister who is handling the sale as to whether we can have any information on whether that matter has been resolved.

The background of this issue was that Sea-Land was concerned for some time about the inequities occurring in the stevedoring levy. That levy was introduced by the commonwealth to pay for the redundancy payments of employees of Patrick Partners. Only a small number of Sea-Land employees were made redundant, because Sea-Land's work practices and productivity performances were significantly better than those of Patrick Partners and P&O, which were at the centre of the commonwealth government's waterfront program. Because the levy is charged on every international shipping container and motor vehicle handled, Sea-Land has to pay the levy on those payments mainly because of the problems that were created by Patrick Partners and P&O. That disadvantages this state, and it certainly disadvantages Sea-Land. I would be interested to know during the course of this debate whether the minister can provide us with some information about how that is being resolved.

As I said last night, the other unfinished business regarding the ports sale is what is happening in relation to the planning study for Port Adelaide. Whilst all this has been going on, the City of Port Adelaide Enfield has been looking at the future of much of the land along the Port River—

The Hon. Diana Laidlaw: With the state government.

The Hon. P. HOLLOWAY: Together with the state government. Why then has the council written to all members of parliament complaining—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Because they have not been getting that information back. They have done the planning statement, but they cannot get any answers from the government. They do not know what is going on either. That is the problem with the whole process of this government. So many things have been going on. This government has not resolved so many issues which it should have resolved prior to this sale, and that is why it is in such a mess. I hope that during the course of my contribution I have made the point that there are significant issues that this government has yet to resolve.

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: I haven't got it with me, unfortunately. But there are certainly issues that relate to the future of that area that are unresolved. The whole point I am trying to get across is that the government has tried to deal with getting the votes through parliament rather than, first, looking seriously at the economic case for the sale. That should have been the first thing done, and there should have been public discussion about that. That is the least this parliament should have expected—some decent, reasonable debate on that.

Secondly, there are the other issues in relation to the grains port, and all the options should have been properly and publicly canvassed, with decisions made on them. Instead, everything has been mixed up together and the minister has made a mess. Is it any wonder that Minister Armitage was taken off the sale of ETSA and replaced by the Treasurer? If another minister had handled the sale of the ports it might have been done far better and perhaps this parliament would have been in a better position to be able to make decisions on these matters. From reading the debates in the other place, the operator of the grain terminal is an issue that has been left up to, I think, the Farmers Federation, and there is likely to be some significant—

The Hon. Caroline Schaefer: No, it is the Grains Council.

The Hon. P. HOLLOWAY: Well, the Grains Council, which is part of the Farmers Federation. There are significant issues here in relation to AusBulk. The grain terminal at Port Adelaide was owned by the old SACBH, which is now AusBulk: it is the owner of that terminal. What happened is that the government said, 'We need a new terminal here', but it has not yet figured out who will operate it. Given that AusBulk at the moment provides the entire services at Port Adelaide, if it has to move—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: The issue is this: is this new terminal a replacement of the existing terminal in relation to AusBulk's activities? That is of significant interest to its shareholders—whether this is being provided as a replacement or whether it will be made available to other operators. If it is the Barley Board, it will involve growers from other states; if it is the Wheat Board, only 12 per cent of the equity will be in the hands of South Australian growers. These are all significant issues in relation to the future, but we do not know, and we will not know until this bill is passed.

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: No, the Wheat Board. The Hon. Trevor Crothers has called me a nong.

The Hon. T. Crothers interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Yes, and I said the Wheat Board as well, because 12 per cent of the Wheat Board and 70 per cent of the equity in the Barley Board is in interstate hands. Even if other members of this parliament do not think so, I believe it is a disgrace that the government has not yet worked out who will own this new terminal, and it will not do so until the end of this month at least. So this bill will pass before that is decided. I would have thought that this parliament is entitled to answers on all these matters. I believe this whole sale process has been a shambles.

The other issue that I have not yet covered relates to recreational access to the ports and what would happen in relation to recreational access to the jetties. I am sure the Council would be aware of the fact that I moved a motion on 2 June last year calling on the Minister for Government Enterprises to guarantee continued safe public access to commercial jetties for recreational purposes, including fishing. That is a right that people have had on jetties such as those at Wallaroo, Port Giles and Port Adelaide for many years.

Under the Ports Corporation, certainly when ships are in, there are signs up. As soon as the ships are in port the public are excluded from those parts of the jetty; but at other times when there are no safety issues the public are able to have access to those commercial wharves. The government was very reluctant to deal with the matter, but finally it was dragged kicking and screaming and came up with this formula for recreational access to commercial wharves.

The Hon. J.F. Stefani interjecting:

The Hon. P. HOLLOWAY: The point I make is that we are actually selling these ports. The public of South Australia have been able to go fishing on jetties for 100 years. Sure, there will be a public liability problem if we sell them, and that is the very point. Because we are proposing to sell them, it then becomes a problem. Until now, because it has been a public facility, the public of South Australia have been able to have access to those ports.

That is now a significant issue and, although the government has come up with some arrangements with local government, I believe that there are still problems with it. However, I will say more about that during the committee stage when we discuss those clauses. That is another issue that was not sorted out at the start.

To conclude the debate, the point I make is that the logic the Olsen government used for selling its ports is not consistent. We have been told that we have to sell them because there is too little risk, that there is no longer the risk where the government needs to invest, that our ports are now mature and, because they are no longer risky, we need to get private investment in our ports. But we are then told that, once we sell Ports Corp, taxpayers' money will have to go into upgrading it anyway. What is the logic in that?

When the government first proposed this sale there was nothing included to say what it would do with the proceeds. The proceeds from the sale could be anywhere between $150 million to $250 million—somewhere in that ballpark figure. But this government was not prepared in its original process to commit that amount off debt. Again, as a result of pressure that has been put on the government over the past few months, it has now been forced to insert clauses in the bill that will require the net proceeds of the sale—that is, after money has been used to upgrade the ports—to be paid off debt. There are issues in that that I will raise during the relevant committee stage. It is a disgrace that the government did not include that in the first place. The opposition will oppose the sale. We believe that this process has been one of the most botched and mangled of all the asset sale processes. There are a number of important issues for the future.

The Hon. T.G. Roberts: That's a big call.

The Hon. P. HOLLOWAY: It is a big call, but Minister Armitage seems to take the cake on these things.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: I have just done it for an hour. There are many cases where the government has botched the sale by having to go all the way through—

Members interjecting:

The Hon. P. HOLLOWAY: We will be interested to hear from the Hon. Terry Cameron. During the ETSA debate I noticed that he had access to the government's figures in relation to the sale. Perhaps, unlike the opposition, he has had access to the figures in relation to this sale. I would be pleased to hear from somebody who can tell me exactly what those figures are, and exactly what the detailed economic analysis is in relation to Ports Corp. I would have thought that that was the very minimum requirement that we in this parliament were entitled to before we consider the bill. Without that information, I do not believe that we can in any way support the bill. Therefore, the opposition will strenuously oppose it on the information that we have.

The Hon. SANDRA KANCK: Let me say at the outset that the Democrats oppose the privatisation of essential economic infrastructure. We reject the myth propagated by neo-classical economists that only the market is capable of efficiently allocating economic resources. We believe it is foolish to transfer vital monopoly infrastructure to private ownership, relying on regulation only to ensure that the competing economic interests reliant on the infrastructure are catered for.

As a trading nation Australia is crucially reliant upon the efficient operation of our ports. Consequently, we believe the

state government should continue to control our ports. Unfortunately, that is not an option with this bill. If it were, if this were a simple question of 'to sell or not to sell', we would oppose the bill. However, we do not have that choice.

The passage of this legislation is not necessary for the privatisation of Ports Corp. The state government can sell without the consent of parliament. It has the ideological mindset that it can privatise and it is clear that it will. Under those circumstances, the Democrats will reluctantly support the passage of the legislation. By doing so we hope we can ensure, amongst other things, that the state receives the best return on the sale.

In the lead-up to consideration of the bill, on a number of occasions I have met and spoke with the minister or his staff members either in person or by phone or fax. I have met with the South Australian Farmers Federation, the South Australian Cooperative Bulk Handlers (which is now called Ausbulk), government officers and Malcolm Thompson from Sea-Land. I have received correspondence from relevant local councils and met with representatives of the Port Adelaide Enfield council. I have worked to get the best possible outcome for all parties that I could in any way negotiate. I note that the Labor Party is opposing the legislation.

Of equal interest, though, is that it does so without recognising the irony of its position. For the record, it was the Keating federal Labor and Bannon state Labor governments that took the first steps down this torturous path of competition policy that has paved the way for the wholesale privatisation of government assets. Now, they blithely ignore their complicity in the events that led us to this point and they are willing in the process to ignore the interests of the Ports Corp employees who have negotiated continuing employment and superannuation guarantees as part of the bill. Should the bill not pass the Legislative Council, those guarantees could well be lost.

On the issue of the current 150 or so employees, I note from correspondence I have received recently from the Australian Services Union that it details the breaking of promises by the government about employee security following the passage of legislation in this place to allow the sale of our electricity utilities. That does not augur well for Ports Corps employees. Despite the decision to oppose the legislation, I hope that the ALP will use the committee stage of this bill (and the other two associated bills) to build in appropriate protections for it.

I think it is unfortunate that the Labor Party has been grandstanding on this issue. It is giving a false impression to the electorate that the vote against this legislation would result in its being defeated when that is, in fact, not the case. The reality is that the three bills with which we are dealing have nothing to do with whether or not the government can sell Ports Corp. What it does is to transfer some of the functions presently under the control of the Ports Corp as well as dealing with issues such as employee superannuation, third party access to port facilities, port operating rules, service standards and so on. As I say, the ALP is certainly misleading the public with the stance it has taken.

Like others I have been dealing with this issue through assorted briefings and meetings for a period of 18 months. After the government announced its intention—

The Hon. P. Holloway: Did you get any answers?

The Hon. SANDRA KANCK: I have some surprising answers: wait until you hear some of them. I sought to get a formal briefing on the sale and, when that briefing occurred, the first question I asked was: why are we selling? I cite the answers that the advisers and consultants gave to me: they are not direct quotes but they are from the notes I took down at the time. It was said: 'It is the right time to sell; the timing is right.' We are going back to what seems to me to be a political slogan of 'It's time.' 'It's time' is a mantra but not a rationale for selling.

They told me that the times have changed in transport. That is not even an argument. We do not ride on penny-farthing bikes. I do not need to be told that transport is different from what it was 100 years ago.

Another of the reasons they gave me is that governments have got out of controlling rail and air transport in Australia so they should also get out of controlling maritime transport. I suppose if you accept the argument that we should all act like lemmings, it is a logical argument. However, it does not strike me as being a great way to formulate the economic future of our state.

Another reason given was that governments around the world are getting out of the ownership of infrastructure. Yet I note that Singapore—which is probably the busiest port in the world—retains its ports in government ownership. Therefore, it is very strange that our government has decided to opt out of it.

Another argument given was that private industry knows better how to handle transport. Obviously, if you look at the experience with rail transport on Australian National, you might come to that conclusion, but the fact is that our federal governments over the past decade have shown that they had no plans for transport in this country.

It is a system that is based on adhockery. So forget about any arguments about whether or not they can handle it. Of course they cannot handle it if they do not have a plan. You cannot compare the federal government's inept handling of Australian National and rail throughout Australia with South Australia's ports. The reality is that South Australian ports in government hands have been operated extremely well for decades. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 1 to 2.15 p.m.]

PROSTITUTION

Petitions signed by 353 residents of South Australia concerning prostitution and praying that this Council will strengthen the present law and ban all prostitution-related advertising to enable police to suppress the prostitution trade more effectively were presented by the Hons R.D. Lawson, A.J. Redford and Caroline Schaefer.

Petitions received.

TAB AND LOTTERIES COMMISSION

A petition signed by 1 699 residents of South Australia concerning the Totalizator Agency Board and the Lotteries Commission of South Australia and praying that this Council will ensure that the Totalizator Agency Board and the Lotteries Commission of South Australia remain Government owned was presented by the Hon. I. Gilfillan.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. K.T. Griffin)—

Soil Conservation Boards Report, 1999-2000

By the Minister for Justice (Hon. K.T. Griffin)—

South Australian Police Report, 1999-2000

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

South Australia Optometrists Board Report, 1999-2000

By the Minister for Administrative and Information Services (Hon. R.D. Lawson)—

Reports, 1999-2000—
- Freedom of Information Act 1991
- Industrial Relations Advisory Committee
- Occupational Health, Safety and Welfare Advisory Committee
- State Records of South Australia—Administration of the State Records Act 1997.

YOUTH AND CRIME PREVENTION FORUM

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a copy of the ministerial statement made in another place today by the Premier on the subject of youth and crime prevention forum.

QUESTION TIME

GOODS AND SERVICES TAX

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question on the GST.

Leave granted.

The Hon. P. HOLLOWAY: The Australian *Financial Review* reported today that the federal government will receive a $2.25 billion GST revenue windfall. On the *7.30 Report* last night the federal Treasurer, Peter Costello, stated:

> Well, the point about GST, of course, is that GST revenues go to the states and the commonwealth can't hoard GST revenues. They're going to the states. The states will have them for roads and schools and everything else.

Given Peter Costello's words on the *7.30 Report*, how much of the GST windfall does the Treasurer expect will be received by South Australia?

The Hon. R.I. LUCAS (Treasurer): In the words of my children, 'If only; I wish.' The situation in relation to GST revenues during what we call this transitional period is that the states are guaranteed all the GST revenues plus additional allocations from the commonwealth government to take us up to the level that we would otherwise have received before the GST, under the old financial arrangements. Obviously, we need to follow this through officially, but the press reports of yesterday's mid year review indicate that some one-off GST revenues resulting from timing differences will mean that the commonwealth government will not have to top up the grants to the states by as much to guarantee our transitional funding level.

So, the funding levels that come to the states will stay the same, but the mix within the aggregate will change. That is, there will be a bigger GST level, including this supposedly one-off timing related GST income, and a smaller component of top up funding from the commonwealth, but the aggregate to the states will stay the same. All the information we have seen in the first 24 hours after the mid-year review is that the budget time estimates given to us by the commonwealth government and Treasury have not been changed from South Australia's viewpoint; we will continue to get the same lump of money from the commonwealth.

There are two more interesting aspects to the honourable member's question, if I might be bold enough to offer a comment. One is that the mid-year review does not have to be conducted until the end of January. I am told that the commonwealth will not get an indication of the size of the GST flows until the end of this month and beginning of next month. At that stage we might get the first early indications as to whether the commonwealth Treasury estimates of GST revenues are conservative, as some commentators such as Access Economics and others, believe they are as a result of black economy money coming into taxation revenue streams. As some commentators have noted, it is interesting that the mid-year review, which does not have to be conducted until the end of January, has been conducted and now released in the second week of November. It pre-dates the first indication of first flows of GST revenues, which we understand will be available at the end of this month and the beginning of next month.

That brings us to the next point, namely, what is to be the extent of any black economy income that may come into the revenue streams? From South Australia's viewpoint, the commonwealth Treasurer has advised us that we will go positive: that is, we will see a net financial benefit to South Australia in the year 2006-07. As I have indicated previously, if the black economy brings on money to a greater degree than the commonwealth Treasury has estimated, it may be that South Australia goes positive a little earlier; it may be two or three years earlier than 2006-07. If that is the case, then obviously from South Australia's viewpoint that will be to the benefit of South Australians, in terms of the sorts of expenditure that the commonwealth Treasurer has talked about, on roads, schools and hospitals. As we have said all along, we believe the shape and structure of the deal that has been done will be of long-term benefit to the state of South Australia—unless a federal Labor government is elected, with its dreaded roll-back of the GST, which is a euphemism for taking away from the states the money that they might have been able to spend on schools, hospitals and roads.

MITSUBISHI MOTORS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer a question on Mitsubishi Motors.

Leave granted.

The Hon. T.G. ROBERTS: There has been some conjecture in the local media and nationally and internationally about the statements that have been attributed to the Chief Executive of Mitsubishi Motors, Mr Sonobe. The Intercom and other news commentators have quoted Mr Sonobe as saying:

> It will be difficult to continue the plant's operation and we are considering whether it is feasible to continue our business in Australia with just a sales operation.

Mr Sonobe is also reported as saying that a final decision on the two Adelaide plants would be made before March. However, I understand that the statements have been contradicted by local representatives and there has been somewhat of a changed position in relation to what would appear to some as a final statement in relation to Mitsubishi's plans.

I know that the community generally and people in the manufacturing sector in Adelaide in particular are nervous

about these comments, understandably so, and people in the motor parts and components industry would also be nervous. On Monday shadow cabinet was briefed by an executive of Mitsubishi about the company's plans for a major increase in exports into the United States and Middle East. The briefing that I have had as a member of shadow cabinet is that sales within Mitsubishi are increasing and that there is a positive mood in relation to its future. My questions are:

1. Given the overwhelming importance of the continuation of Mitsubishi's two manufacturing plants in Adelaide to South Australia's economy and the strong bipartisan support in this parliament for retaining the jobs of Mitsubishi's 4 000 workers, has the Premier or Treasurer spoken directly to Mr Sonobe about the statements in relation to the indicated position?

2. What negotiations or discussions have been held with Chrysler Daimler in relation to its position, as it appears that its executives are more optimistic in relation to the future of Mitsubishi in South Australia?

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I am not at liberty to provide my description of bipartisanship.

The Hon. R.I. LUCAS (Treasurer): Obviously the publicity of the past 24 hours has provoked some concern amongst workers and their families tied up with Mitsubishi and I am sure that we can all understand that. I guess that we can be comforted by the very strong response from Mr Tom Phillips. I apologise because I do not believe that I have ever used a profanity in parliament, but Mr Phillips was quoted on the ABC no less, so if it was on the ABC I guess that I am permitted to use the word quickly. In response to the ABC's Tokyo correspondent, Peter Martin, Mr Phillips said:

> Quite frankly it really pisses me off that all this is going on and I'm up here and people are in absolute turmoil back in Adelaide.

Mr Martin said:

> Tom Phillips walked out of what he says was a pleasant meeting with the Mitsubishi President and board in Tokyo only to read the President quoted in the *Financial Times*. . .

Without going through the whole article, Mr Tom Phillips went to say:

> I personally don't have any single doubt that we are going to get the full support of the board to continue on and make Mitsubishi Australia much stronger than what it is.

Mr Martin said:

> The President is quoted as saying a decision will be made before March. You are saying you are confident that that decision will be to be continue the Adelaide plant.

Tom Phillips said:

> I am very confident. I have got no doubt that we are going to continue but I think that we will also be able to make a very positive announcement in December some time and we have all this other rubbish coming out of the *Financial Times*.

We are not in a position to get ourselves involved in the internal machinations of the new corporate giant Daimler Chrysler Mitsubishi, but Tom Phillips, who is the very energetic, dynamic new CEO for Mitsubishi, has been in Tokyo over the past 48 to 72 hours. He was having discussions with senior management and the board of the company and, if anyone is well placed to be able to make a comment in relation to Mitsubishi's future in Adelaide, it would have to be Tom Phillips.

I think we all appreciate, given the recent major announcements in relation to corporate restructuring in the automotive industry, that all these corporate giants are looking at their international positions and their competitiveness. I think the other encouraging thing we have heard from Tom Phillips and Kevin Taylor on behalf of Mitsubishi has been what they describe as the very favourable response to the very difficult restructuring decisions that Mitsubishi has already taken and implemented with the support of its work force and management at Mitsubishi.

The Hon. Diana Laidlaw: It has never laid off workers.

The Hon. R.I. LUCAS: No, it has been an extraordinarily cooperative effort between management, the unions and employees at Mitsubishi because management, the employees and the union leaders at Mitsubishi realise that we are in a global competitive workplace at the moment in terms of the automotive industry and that the days of being able to lock ourselves away from international competition are long gone. The union leaders with management, to their credit so far, have been prepared to acknowledge that and have been prepared to acknowledge that significant restructuring had to be put in place at Mitsubishi if it were to have a chance of surviving. That did mean some difficult decisions; it did mean some reduction in staff; it did mean some reduction in costs; and it did mean a number of people and groups having to make sacrifices for the greater corporate good of the plant in the southern suburbs.

From the government's viewpoint, we are doing all that we can as a state government to assist Mitsubishi management in convincing those who will make the decisions ultimately that Mitsubishi in South Australia not only has a cooperative arrangement between the unions, its workers and management but also has a state government that is committed to working with both groups to try to ensure the continued viability of Mitsubishi in Adelaide and in South Australia.

To that end, some months ago the Premier announced the establishment of a task force under the leadership of Graham Spurling. He and others have been working with management and others in terms of what possible assistance the state government might be able to provide to ensure Mitsubishi's continued presence in South Australia.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: Exactly. We are talking about an automotive manufacturing presence in Adelaide, not a wind back from the state government's viewpoint to a sales and marketing work force. As I said publicly last evening and early this morning, this is a significant decision for not only the company's workers but also the state. Obviously, the government cannot lock itself away in terms of specific details on commitment and assistance until it can be assured of a long-term future for manufacturing in Adelaide for Mitsubishi. Of course, before that can occur, the company has to establish its own view of its international restructuring and where it sees various countries and plants fitting into that international manufacturing and marketing plan for the company. When we become aware of the potential options that are open to the company, we will then be in a position to be able to provide specific details to the company in terms of potential assistance from the taxpayers of South Australia through the South Australian government.

The Hon. Mr Roberts, who, I acknowledge, is as committed as anyone in this chamber to a future manufacturing presence in South Australia, would, I am sure, be aware that this is a time for cool heads and cool statements in public and certainly not one-upmanship in a political sense as to who is speaking to whom at what stage and 'Have you done this and have you done that?' I am sure that the Hon. Terry Roberts of the opposition at least will appreciate that the state government (in particular, the Premier) will do everything

that is humanly possible to achieve the shared objective that the honourable member and the government have for the continued presence of Mitsubishi in South Australia. I am not in a position on behalf of the government to say much more than that publicly at this stage. I think engaging in extended public debate about some of the aspects of these decisions would be counterproductive of the achievement of the objective that we both share.

CASTALLOY

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer in his capacity as Minister for Industry and Trade a question about Castalloy.

Leave granted.

The Hon. P. HOLLOWAY: A media report yesterday quotes Castalloy's Managing Director, Mr Colin Peters, as saying:

> We will be producing Proton cylinder heads from our Adelaide premises and exporting them to Malaysia through to 2004 after which we will slowly start the process of transferring production through to a Malaysian based joint venture.

Mr Peters also said that the company would 'transfer plant and intellectual property over to Malaysia'. My questions are:

1. Is the minister concerned that this South Australian based firm intends to move its production of cylinder heads for the Proton car to Malaysia after 2004, and what is the government doing to encourage Castalloy to retain jobs here?

2. Will the 50 new jobs which the Premier claimed yesterday would be created at Castalloy as part of this deal still be there are after 2004?

3. How much financial assistance did the government provide to Castalloy for this deal?

The Hon. R.I. LUCAS (Treasurer): I will not be as generous with my comments towards the Hon. Mr Holloway as I was towards the Hon. Terry Roberts in terms of his question. Again, I think the whole notion of trying to get on the public record the specific details of what the state government is trying to do on behalf of South Australian workers and their families is counterproductive. We have had this debate before. I can say to the Hon. Mr Holloway that the Premier again—

The Hon. L.H. Davis: Mike Rann's definition of bipartisanship.

The Hon. R.I. LUCAS: Yes. I can say that the Premier, in particular, together with other government ministers (including me), will do all that he can to ensure that there will be as strong and viable a manufacturing presence as is possible within South Australia. The reality is that some companies will continue a manufacturing presence in South Australia, and we will encourage that.

As part of their manufacturing presence in South Australia they will extend operations in countries overseas. If you had your ideal set of circumstances you would want all manufacturing in South Australia, but the reality is that a company that can continue to have a strong and viable presence in South Australia with some manufacturing here and either joint venturing or some manufacturing options overseas is certainly to be preferred to the third option which is that the company is no longer viable and closes down and the South Australian workers and their families who rely on that company for their jobs will not have them. In relation to the specific details, other than the extent of any financial assistance, I am happy to take advice on the issue from the department and the Premier and bring back a reply as soon as I can.

ELECTRANET

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

Leave granted.

The Hon. L.H. DAVIS: My attention was drawn to a news release by the highly regarded ratings agency Standard and Poor's, which was issued yesterday (15 November). Standard and Poor's assigned its long-term 'BBB+' and short-term 'A-2' issuer credit ratings to the South Australian transmission company, ElectraNet Pty Ltd. As members opposite in particular would understand, ElectraNet comprises a consortium of local and international investors which have bought the transmission assets in South Australia.

The Hon. P. Holloway interjecting:

The Hon. L.H. DAVIS: Will you just keep quiet; you won't be so chirpy at the end of this. As even the Hon. Paul Holloway might know, ElectraNet is the sole transmission company in South Australia, and 97 per cent of that revenue is regulated under the electricity pricing order. However, what was particularly interesting about this release is the following observation made by Daniela Katsiamakis, an associate of Standard and Poor's Infrastructure Finance Ratings:

> . . . the potential harsh outcome of a regulatory reset in fiscal 2003 could lower future revenue.

That is, of ElectraNet; and the Hon. Paul Holloway would be particularly interested in that revelation. It expands on this later in the press release by saying:

> Future financial performance—

that is, of ElectraNet—

> is threatened by the expected regulated price reset by the Australian Consumer and Competition Commission (ACCC) from 1 January 2003, which could result in lower than expected revenue.

Members of the leadership group of the Labor opposition—in particular Mr Rann, Mr Foley and Mr Holloway—have objected to the privatisation of ETSA on the grounds very much that we are giving up a stable revenue flow, an assured revenue flow, from the ETSA assets into the future years.

My question to the Treasurer is as follows: given the news release from Standard and Poor's assigning a credit rating to ElectraNet, and in particular the comments that it has made about future revenue streams from ElectraNet, can the Treasurer advise the Council whether the forecast from Standard and Poor's accords with the government assessment of the future profitability of the electricity industry in South Australia, given the requirements of the National Electricity Market, which, in fact, was established by a federal Labor government?

The Hon. R.I. LUCAS (Treasurer): I thank the honourable member for his question. It really does—together with a question asked earlier in the week by the Hon. Terry Cameron about the massive losses by government owned interstate electricity businesses in Queensland and New South Wales—hammer the financial incompetence and paucity in strength of the argument of the Labor opposition and indeed others in this chamber in relation to the privatisation of ETSA.

The argument we have heard for some time from Mike Rann, Kevin Foley, the Hon. Paul Holloway and the Australian Democrats has been that the state has a guaranteed

$300 million per year flowing into its budget from ETSA—I am not sure where they got this figure of $300 million, but for the sake of the argument—

The Hon. L.H. Davis: Danny Price.

The Hon. R.I. LUCAS: Yes, but for the sake of the argument let us leave the figure at $300 million—

The Hon. T.G. Cameron: Leave Nick Xenophon alone!

The Hon. R.I. LUCAS: I did not even mention Nick Xenophon's name. It was Danny Price. In the mind of some people it is automatic word association—Danny Price: Nick Xenophon. The Labor/Democrat argument was that the transmission and distribution was risk-free with a guaranteed $300 million. The best we could get out of them was that maybe there was some risk in generation and in retail, although on their worst days they would not even concede that. However, there was this guarantee that the state was giving up $300 million per year.

We warned all along that one of the risks for the distribution and transmission company—and we are not in a position to quantify it at this stage—is that, when the independent regulator in 2003—and in this case for transmission it is the ACCC—looks at the revenue flows that the monopoly provider of transmission services can offer, the independent regulator may well reduce significantly the revenue flows for the transmission company.

In the hands of the government, when the money was going into the budget, that was a significant risk to the budget flows. What Standard and Poors suggest is that it has looked at the future estimates of the credit rating for ElectraNet and taken into account this issue and, given the dozens of issues that it takes into account, it is obviously significant that that is the one that it has issued in its press statement on the credit rating for ElectraNet. It believes it to be significant enough to indicate that, based on what has happened with the regulator in Victoria for both the gas and electricity assets and what has happened with ACCC decisions in relation to gas pipeline assets elsewhere, it believes that that is a significant risk to the future revenue flows of ElectraNet.

The beauty of the privatisation process from the South Australian taxpayers' point of view is that that risk now rests with the shareholders in the private sector of that private sector company. That is their risk that they have made judgment—

The Hon. L.H. Davis: That is what Mr Holloway said.

The Hon. R.I. LUCAS: The Holloway, Foley and Rann position is 'No risk, don't worry about it, all the money will come through to the budget and you are giving up this $300 million per year guaranteed to go into the state budget'. What we have now is that an independent, respected credit rating agency is certainly putting on the public record the sort of views the government and those who supported the decision indicated over the past 12 to 18 months of this debate.

The disadvantage with continuing with government ownership was that those risks would have rested on the shoulders of the taxpayers of South Australia, because it would have meant less money coming into our state budget and less money being able to be spent on schools, hospitals and roads in our state public sector.

Members interjecting:

The Hon. R.I. LUCAS: Recent press reports in relation to distribution companies in New South Wales—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I think the Hon. Paul Holloway only pauses to change feet. We do not know whether it is his left foot or his right foot in his mouth at this stage. I suggest that he takes the Hon. Mr Davis' advice and does not embarrass himself and his party any further in relation to these issues. If the people of South Australia had believed Mike Rann, Kevin Foley and the Hon. Paul Holloway, it would have been the taxpayers of South Australia who, over the coming two years, would have to worry about the reductions in revenue flows as a result of decisions by independent regulators like the ACCC for the monopoly businesses like the transmission and the distribution businesses. In responding to the Hon. Mr Holloway's interjections about the future of TXU and the distribution company in Victoria, I point out that one of their concerns was the 20 per cent or so reduction in this supposed guaranteed income that they were going to get as a distribution company, because it was a monopoly business in that part of Victoria.

The Hon. P. Holloway: Surprise, surprise!

The Hon. R.I. LUCAS: What is the surprise?

The Hon. P. Holloway: That this company should want to make more money.

The Hon. R.I. LUCAS: Surprise, surprise for the Hon. Mr Holloway: for his view to have prevailed, that is, the $300 million a year guaranteed income that he alleges was going into the state budget, the government monopoly supplier of transmission and distribution services would have to have continued to screw higher and higher prices out of the taxpayers and the electricity consumers of South Australia.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, this was under your model. Under his model, the Hon. Mr Holloway wanted to see a situation where the Treasurer or the government of the day had monopoly control over the prices for these monopoly businesses. Under the new arrangements—

Members interjecting:

The PRESIDENT: Order! There are too many interjections.

The Hon. R.I. LUCAS: Standard and Poor's have very succinctly nailed the lid on the coffin of the Labor Party argument in relation to the risk-free nature of the distributions of the electricity businesses into the state budget. I would hope that not even the Hon. Mr Holloway in the future, nor the Democrats, will have the hide to stand up in this chamber and again profess the view that these are guaranteed incomes that the electricity businesses of South Australia, ETSA in particular, were going to have for now and into the future.

DUBLIN CATTLE YARDS

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Attorney-General, representing the Deputy Premier and Minister for Primary Industries, a question relating to the Dublin cattle yards.

Leave granted.

The Hon. IAN GILFILLAN: The South Australian Farmers Federation has written a letter to the principal of Livestock Markets Ltd in relation to the cattle yards at Dublin as follows:

> The South Australian Farmers Federation strongly supports the building of the cattle saleyards at Dublin.
>
> The benefits of a modern, quality assured cattle selling facility to this state are undeniable. They would provide all cattle producers in this state, especially those in the northern regions, a vital avenue for selling their product.

We are currently unaware if any solutions have been reached between the parties involved in the financing of the Dublin cattle yards. We assume that no decisions have been made as yet.

SAFF is concerned that the negotiations taking place between Livestock Markets Ltd, Elders, Wesfarmers Dalgety, and the government are becoming drawn out and critical time is being lost.

This is especially concerning considering the Gepps Cross cattle facilities will no longer be in operation come February 2001. If the Dublin cattle yards aren't running by this time, then this will severely limit facilities for cattle producers in the northern areas. Should this eventuate, cattle producers will look to sell their cattle in other states and it will be very difficult for South Australia to regain this market share.

We feel very strongly that the building of the saleyards at Dublin is imperative. Members of SAFF and cattle producers in general are extremely concerned that nothing is being done to progress the issue. In order to arrive at an outcome to this apparent standstill, SAFF would like to offer its support to help facilitate this negotiation process. What can we do to help?

The letter is signed 'Chris Parker, Chairman, SAFF Livestock Executive'. This, as clearly as anything can, outlines the concern of cattle producers across South Australia because of the lack of government support for the yards. It is interesting to compare that with a media release issued on 9 November in Victoria, which states:

The Minister for State and Regional Development, John Brumby, today announced that the Bracks government would contribute $1.5 million towards a major upgrade of the Bairnsdale saleyards to enable it to meet international standards.

That is the second stage. Members should bear in mind that that is not the initial building. The second stage of the redevelopment means the saleyards will finally meet national saleyard quality assurance standards.

Some $30 million worth of cattle go through the Bairnsdale saleyards. The estimate for Gepps Cross is $50 million, and it is important to note in that detail that there is a $1.45 million grant which has come direct from the Victorian government. I have been advised today that both Wesfarmers and Elders have committed $1 million outright to contribute to the building of the Dublin cattle yards. With that was an understanding that the government itself would contribute to the construction of this essential infrastructure. I ask therefore:

1. Will the minister immediately grant the Dublin cattle yards $3 million to satisfactorily complete this essential infrastructure? If not, what will the government contribute, or is the government intending to walk away from the needs of the cattle producers of South Australia?

2. In response to complaints from people in the negotiations, will the minister himself engage in urgent discussions with Livestock Markets Limited and stock agents, and not leave it to his underlings to undertake those negotiations?

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

MEDICINES PROGRAM

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for the Ageing a question on the quality use of medicines program.

Leave granted.

The Hon. CAROLINE SCHAEFER: An advertisement in last Saturday's *Advertiser* for $500 community grants reads:

Are you a grassroots community group, individual or health professional who would like to increase the knowledge of and active participation in the wise use of medicines by Australians who use medicine? In particular, are you interested in educating people in rural and remote areas, people from culturally diverse backgrounds, indigenous Australians, about the wise use of medicine?

As an aside, I might add that the advertisement clearly came from the commonwealth government because it would have cost a good deal more than the $500 that is being advertised as grants. Can the minister give further details on the quality use of medicines program, how it will be implemented in South Australia and what benefits there will be to older South Australians, especially those who live in rural and remote areas?

The Hon. R.D. LAWSON (Minister for the Ageing): I thank the honourable member for her question. Her interest in the wellbeing of people generally in rural and remote areas is well known, as is her interest in the welfare of older people. Some 44 per cent of people over the age of 60 use four or more medications daily. About 26 per cent on figures I recently saw are taking five different medications each day. A very large number of hospital admissions occurs in Australia and South Australia each year in consequence of the inappropriate use of medication, especially by older people and also by persons from non-English speaking backgrounds. This of course is not only an enormous cost to the hospital system but also an enormous cost and burden to the individuals concerned.

Surveys which have been undertaken show that many people take a wide range of medications. They mix prescription medications with non-prescription, they use alternative herbal remedies, and very often they take medications that were prescribed for them some time ago but are now well past their use-by date.

They exchange medications with their spouse or relatives and very often there are adverse reactions among not only the vast number of people who are admitted to hospital but also the vast numbers of people who suffer without admission. So, I am delighted that the commonwealth has announced a new program to encourage community groups to be involved in passing on the message to the community about the inappropriate use of medications. There have been a number of programs such as this; for example, Home and Community Care conducted a pilot program in the northern metropolitan area of Adelaide. Peer educators have been trained through a number of programs. It has been found that one of the best ways to get the message out into the community is for a number of trained volunteer educators to go out to speak to groups, such as local senior citizens clubs or local community groups, and alert them to the dangers. That is a good way of getting into non English speaking and indigenous communities, and I am sure also into rural and remote communities.

I commend the commonwealth for this new initiative. The grants of $500 each are not large in monetary terms, but they will enable those groups to spread this very important message. I will obtain further details of this new initiative, ascertain how it fits in with our existing programs and report back to the Council with any further information.

SHERIDAN AUSTRALIA

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Treasurer in his capacity as Minister for Industry and Trade a question in relation to jobs at Sheridan.

Leave granted.

The Hon. CARMEL ZOLLO: On Tuesday this week the Premier said that the 450 jobs at Sheridan at Woodville North are now secured for the long term. On the following day the

company announced that 40 jobs were to go. While no mention was made of this in the Premier's statement to the House or at the on-site media conference involving the Premier, a media outlet reported that the Premier's Department had been aware of the impending redundancies. Earlier in the month the Premier promised that 300 extra jobs would be created at British Aerospace, but 60 workers were sacked the following day. Was the government aware that 40 workers from the Sheridan textile company were to be made redundant when the Premier visited Sheridan and, if so, why did he not reveal this to the parliament?

The Hon. R.I. LUCAS (Treasurer): I am not sure that the honourable member's detail in her explanation and question are correct. The honourable member quoted the Premier as saying that 450 jobs at Sheridan would be protected. I thought the company had talked about 650.

The Hon. Carmel Zollo interjecting:

The Hon. R.I. LUCAS: The honourable member said 450. I am not sure that her information is correct. I will therefore need to check that information and the statements made.

The Hon. Carmel Zollo: I should have said '650'.

The Hon. R.I. LUCAS: The Hon. Carmel Zollo says that she should have said '650' rather than '450'. On the basis of that correction, I am certainly prepared to check what the Premier and the company said and ask the Premier whether he was aware of the statements made by the company and the union. I have seen some press reports from either the union or the company—I cannot remember—which indicated that these jobs were in the weaving division and that they had known for some time. I cannot personally attest to the accuracy of the media reports. I am happy to have the matter checked and certainly provide a reply to the honourable member as soon as I can.

BARCOO OUTLET

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

Leave granted.

The Hon. M.J. ELLIOTT: It might be that several different ministers will need to respond to this question. The Barcoo Outlet is the diversion pipe that has been put in so that the Patawalonga no longer receives waters from the Sturt Creek or from a significant drainage area in West Torrens. Considerable concern has been expressed by members of the public about the fact that the water is being sent straight out to sea rather than going through a settlement process, as it used to do in the Patawalonga, before entering the sea. Many people believe that, if the Patawalonga was not to be used for settlement, many more wetlands should have been put in upstream to clean the water, rather than just build the Barcoo Outlet. Those concerns have been on the record for some time.

A couple of months back I asked questions of witnesses before the ERD Committee about the model that is being used in terms of the effluent plume that will form as a consequence. I note that, despite the fact that those people were asked to return with further information to the ERD Committee about that, they have not done so. I suppose there was a great deal of concern about the confidence in this model in terms of the effluent plumes and the consequences for the marine environment because the models that were used for sand movement proved to be so wrong, as indeed many people predicted they would be. The question of confidence with the model in terms of impact on the marine environment is one major issue.

The next issue that has been brought to my attention is that, as I understand it, the contract for the Barcoo Outlet was let for $16.8 million, which is another public contribution to the private development at Glenelg. According to my information, it appears highly likely that there will be a significant cost overrun with the Barcoo Outlet. Can the minister inform this place as to precisely what the expected cost of the Barcoo Outlet works will now be and, if there is a cost overrun, who will bear those costs?

The final matter that has been brought to my attention only today relates to stormwater drainage from the West Torrens area. In the past, much of that stormwater has gone out through the Patawalonga; now it is to go out through the Barcoo Outlet. I have been told that significant improvements have been made in the drainage and that will move more water more quickly into the Barcoo Outlet. I have also been informed that there is now a significant concern that the Barcoo Outlet will not be able to cope at all times with the quantity of water arriving, so there is concern about the potential for flooding as a consequence. When there are storm events, which often coincide with storm surge induced high tides, what assurance will the minister give that flooding will not result as a consequence of the Barcoo Outlet being unable to handle the volumes of water at that time? My questions are:

1. Will the minister give an indication as to when responses will be given to the ERD Committee in terms of the modelling for the marine environment, particularly the pollution plumes created?

2. Will the minister give assurances that there will not be any cost overruns in relation to the Barcoo Outlet? If there are any, what overruns are expected and who will pay?

3. What assurances can be given in relation to the Barcoo Outlet not coping with, particularly, storm events and consequential flooding?

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

GAMBLING, TELEPHONE COUNSELLING SERVICE

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Human Services, a question about problem gambling telephone counselling services.

Leave granted.

The Hon. NICK XENOPHON: On 17 February 1999 I asked a question of the minister about the 24 hour telephone gambling counselling service as follows:

> Prior to December 1998 when the 24 hour telephone counselling service commenced, a 9 to 5 telephone counselling service was offered through a 1800 number which connected callers to individual BreakEven service providers here in South Australia. However, since December 1998, rather than simply providing an after hours telephone counselling service, as a number of gambling counsellors in South Australia anticipated, all calls for assistance [not just after hours calls] have been diverted to [interstate operators who act as a referral service].

This week my office received two calls from individuals who were very distressed over their gambling problems, both as a result of poker machines. One of the individuals who

contacted my office this morning was so distressed that he said he was contemplating suicide; he was unable to speak to a counsellor of the telephone service and was getting a pre-recorded message instead. That person was subsequently referred by my office to a BreakEven service provider and, hopefully, he is now receiving the urgent assistance that he requires.

In March 1999, the minister responded to the question I put in February that year with respect to the 24 hour gambling help line as follows:

> A thorough evaluation will be undertaken of the operation of this service at the end of a six month pilot period of operation. Meanwhile, data is being collected which will form the basis of the evaluation [including]—
> - call analysis data is being provided by Telstra to the Department of Human Services on a monthly basis;
> - the Addiction Research Institute provides monthly reports on call numbers, more detailed statistical reports at three and six months operation and a report which includes data plus analysis and inferences;
> - a client satisfaction questionnaire is included whenever information is mailed out to callers with a reply paid envelope to the Department of Human Services and is also given to clients by local BreakEven services when they identify that client as having been referred to them by the gambling help line.

The minister in responding stated:

> What is important to people with gambling problems, particularly those who decide to call the gambling help line because of a crisis situation, is that they receive immediate access to experienced counsellors with expertise in dealing with gambling problems.

My questions are:

1. Will the minister release the analysis data monthly reports and client satisfaction survey results referred to in the minister's response to my question last year and, if so, when?

2. Given instances of severely distressed problem gamblers being unable to get assistance, despite the assurances that problem gamblers would receive immediate access to experienced counsellors, will the minister investigate these claims as a matter of urgency, particularly given that the state government is collecting something like $1 million a day in gambling in taxes?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the honourable member's questions to the minister and bring back a reply.

ALZHEIMER'S DISEASE

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Disability Services questions concerning Alzheimer's disease and the Safe Return study.

Leave granted.

The Hon. T.G. CAMERON: The South Australian plan that identifies people with Alzheimer's disease so they can be returned safely home is facing a funding crisis. The Safe Return pilot study, a study project for the Alzheimer's Association and SA Police, has used all its start-up funding provided by the state government and donors. In South Australia, about 200 sufferers use the service but there is still about 5 000 people who need help. The Australian First Plan, in which sufferers wear wrist bracelets etched with the words, 'safe return', a personalised number and the SA Police emergency number, has been hailed as an answer to the increasing problem for the aged.

Recent figures show five people a day in South Australia alone are diagnosed with Alzheimer's disease or some other form of dementia. It affects one in four people aged 85 and over, and one in 25 aged 65 years and over. Wandering from home is common and often causes unnecessary concern and many hours of police time. The Safe Return database, accessible by police 24 hours a day seven days a week, contains sufficient information for the police to arrange a speedy return of the sufferer to his or her place of care. I am aware that groups in other states are also interested in becoming part of the computerised registry system. However, as I mentioned previously, start-up funding provided by the government has dried up. My question to the minister is: will the government ensure adequate funding is available for the Safe Return program to continue and, if not, why not?

The Hon. R.D. LAWSON (Minister for Disability Services): I commend the honourable member for raising the matter of the Safe Return program. It is a very good program, and I had the pleasure of attending the Alzheimer's Association a couple of months ago when the program was, in effect, re-launched after the initial pilot was launched last year. As the honourable member says, the pilot program was funded by some government funding as well as funding through the Hotels Association or the Gaming Fund. Mr Peter Hurley was present at the re-launch, and the contribution from his organisation to this excellent program was appropriately acknowledged.

I was informed on the day that the pilot has revealed a number of limitations in a scheme of this kind. One is the fact that a cost is involved. Users of the Safe Return program are asked to make an initial contribution as well as pay an annual fee. Those who devised the scheme were looking to see whether that was one of the reasons why there had not been as fast a take-up of this program as had initially been expected.

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: That is true. As the honourable member mentions, other states are looking at this program but, as far as I have been informed, no other state has taken it up in its present form and it is still in the pilot phase. If this scheme gains widespread acceptance, it will obviously save families a great deal of concern and cost. It will also save the police concern, because people with Alzheimer's who wander—and there are a number in that category, although not all—become bewildered and give cause for concern when people in the suburbs see an elderly person who is obviously confused and wandering and not able to describe to whoever approaches them exactly where they come from.

The Safe Return bracelet and the database, which is maintained and accessible by police an ambulance services, is an extremely good idea provided that we can be sure that those who need the service are prepared to take it up. If cost is an impediment to that take-up, we should examine other means of extending the service. I will seek further information from the Alzheimer's Association and those who are developing the program to see whether there is any further material that I can provide to the honourable member concerning the continuation of the program.

ROADS, RIVERLAND AND SOUTH-EAST

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Transport a question about main roads in the Riverland and the South-East.

Leave granted.

The Hon. R.K. SNEATH: I refer to the lack of passing lanes on main roads in the Riverland (Blanchetown and from Barmera to Berri) and the South-East (from Keith to Naracoorte and from Naracoorte to Mount Gambier) and the continual change in the speed limit between Barmera and Berri because of constant bends in the road. All these roads have had major accidents and contain a number of black spots. My question is: are there any plans to install passing lanes on the roads between Keith and Naracoorte and Naracoorte and Mount Gambier and to provide more passing lanes in the Blanchetown area as well as straighten the road between Barmera and Berri?

The Hon. R.I. LUCAS (Treasurer): On behalf of the Minister for Transport, I am happy to indicate that I will ask the minister and her staff to bring back a reply as expeditiously as possible. I am aware of the minister's strong and passionate commitment to installing more passing and overtaking lanes in—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: The minister is personally committed to seeing further money spent on more passing and overtaking lanes, in particular in rural and regional South Australia.

Members interjecting:

The PRESIDENT: Order! The time for interjecting has now concluded.

The Hon. R.I. LUCAS: Hear, hear! A very good ruling, Mr President. As I am sure you, Mr President, would know, the advent of passing lanes on the road from Mount Gambier to Adelaide has improved not only road safety but also the comfort level of drivers on that regular trip backwards and forwards from Mount Gambier or other parts of the South-East to Adelaide. It has been one of the more popular initiatives in terms of road safety and traffic design that we have seen in recent times. Members who have driven from Adelaide to Melbourne would know the great boost it is to driver comfort and safety to see those long stretches of—

The Hon. J.S.L. Dawkins interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Dawkins has obviously recently done it as well. I know that the minister is committed to a further expansion of passing or overtaking lanes. I will be happy to refer the question to her and her officers to see whether she can give some greater detail as to where those extra funds will be spent over the coming years.

The only other point might be that, with the federal government's bold new initiative on increased road funding—and we hope a significant proportion of it will come to South Australia—I am not sure whether that also heralds an opportunity for further expenditure on passing and overtaking lanes here in South Australia.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Unlike the Labor Party, and as suggested by the Hon. Mr Holloway, we make judgments on the basis of the merits of the case. The white board used by Labor ministers Ros Kelly and others is not the way Liberal governments undertake decisions on important expenditure.

MATTERS OF INTEREST

ADELAIDE BOWLING CLUB

The Hon. L.H. DAVIS: I want to speak about the hypocrisy, political correctness and unreality that has descended on the City of Adelaide in relation to the parklands. Only this week we saw a page 3 story in the *Advertiser* about the Adelaide Bowling Club and its 10 pokies at its clubrooms located on the east parklands. Some councillors, such as Anne Moran, say that they are inappropriate in council owned buildings in the parklands. Nick Xenophon, who elsewhere has approved of pokies in clubs, although he came in as a No Pokies candidate, was in on it saying that it would help prevent the spread of poker machines. Of course, they had been at the clubrooms in this modest bowling club since 1995.

The Adelaide City councillors perhaps are not aware that a few hundred metres away financial transactions occur quite a few days a year at a venue in the parklands called Victoria Park—gambling on the horseracing, no less! Recently international horse trials took place in the east parklands adjacent to the Adelaide Bowling Club. The TAB sponsored this event and had a marquee with betting facilities for the spring carnival race meeting. Where was councillor Anne Moran when that occurred?

The Adelaide Bowling Club made a modest profit of $17 000 last year. It is the oldest bowling club in South Australia, having been located at Kintore Avenue-Victoria Drive in 1958. To allow the opening up of Kintore Avenue to through traffic, the government of the day, under Premier Tom Playford, negotiated for the Adelaide Bowling Club to relocate to the east parklands. It has been a successful and leading bowling club. It regularly holds the Masters tournament, which is regarded as one of the great bowling tournaments in Australia and attracts some of the best bowlers in Australia and internationally. In fact, one of its early club members, Hubert Gerard, inaugurated that beautiful rose garden that is adjacent to the Adelaide Bowling Club along Dequetteville Terrace.

I want to also make remarks about the lights at Adelaide Oval. There has been a furore, again led by many of the Adelaide City Councillors, about the lights. I have seen the lights of all the major sporting facilities around Australia. I must say that Adelaide Oval's are as good as anything I have seen. There has been an argument to say that the light poles are too high. What people do not understand is that the lower the lights the more spillage occurs outside the grounds. Ironically, when Football Park's lights were first put in there was an uproar from the people who lived in the area saying the lights cannot be so high. So, they reduced the level of the light towers at Football Park. What is the story now? The people surrounding it are complaining and saying that the lights should be higher because they are getting too much spillage.

The Adelaide Oval is a good example of a ground which is being looked after very well by the present management led by Michael Deare and SACA president Ian McLachlan. They are aware that they have to keep upgrading that ground to compete with the other grounds around Australia if they are to retain Test matches and one-day matches. The reality is that day-night, one-day cricket is here to stay. Adjacent to the Adelaide Oval is a bowling club which like the Adelaide Oval

is also on parklands. I do not know whether Anne Moran has suggested that that should be closed down.

Then adjacent to that area is the Memorial Drive tennis courts, where a recreational centre has recently been completed. Jane Lomax-Smith, now Labor candidate for Adelaide, says it is the worst mistake she has ever made in allowing that to develop. Yet when one looks at that centre I think it has been sensitively developed, by Hassell. When driving past one can see that it is obviously very popular, notwithstanding the fact that there are some people like the Australian Democrats who railed against that development very strongly. I would suspect that they do not have that same view now. In fact, I can now report to the Council exclusively that the Hon. Michael Elliott swims at that very centre which he condemned in this parliament—that is consistency for you, Democrat style!

BEACHPORT BOAT RAMP

The Hon. T.G. ROBERTS: I would like to give a brief personal explanation as well as report on a matter of interest. I have raised in this chamber the matter of a proposed extension for a boat ramp in the Beachport bay. I have raised concerns on behalf of constituents who had difficulties with the size and scale of the extension and the fact that it would impact on a local swimming beach in an environmentally sensitive area where young children and power boats, speed boats and fishing boats would be most active.

The Hon. T.G. Cameron: You're not upsetting the local mayor again are you?

The Hon. T.G. ROBERTS: I must indicate that the local mayor is a strong proponent of the project, and the mayor and the CEO visited my office and the office of the Hon. Angus Redford to lobby both of us on the legislation in relation to proprietary racing. In the time they were in my office I spent most of my time on proprietary racing with them. However, just at the end of the meeting I did raise with the mayor and the CEO that I had had a meeting with the minister to raise the problems associated with the extension of the existing ramp and I said that I had proffered an opinion to the minister that another site might be worth considering.

The minister subsequently made a decision to freeze the funding for the existing program and decided to call the stakeholders together to try to find an alternative site that was less environmentally sensitive, and maybe safer, and to divert the activities of young children playing and swimming away from those backing boat trailers so that the two could be mutually acceptable and everyone could be happy.

Unfortunately, the mayor either forgot that I had raised the issue just as he was leaving or he was hard of hearing. However, I am sure I heard him reply to a statement I made about the meeting, although I was not going to give him any detail of the meeting because my understanding was that it was confidential. It was with the minister and it was up to the minister to relay any of the results. I thank the minister for the meeting because I know she is very busy and she did take the time to look at the issue.

I was not prepared to breach the confidentiality of that meeting and I thought that, if the minister wanted to relay the results of the meeting to the people concerned in the Wattle Range council, that was her responsibility. There was a recommendation to the mayor that, if they did want to look at another site, there may be an alternative funding program, which I thought was a fair offer from the government, given that funds are tight and the commitment to that project was known.

I wish to read into *Hansard* the little piece that the mayor has had published about the Hon. Angus Redford, who can defend himself, and me. The article states:

> The minister was most apologetic regarding not informing the council of her decision and for the council having to learn via the media.
>
> It is disappointing the South-East members involved did not have the intestinal fortitude to discuss with council, as the proponents of the project, their concerns with and intentions to de-rail the project instead of becoming involved in back door political skulduggery.

I would like Mayor Ferguson to apologise to both the Hon. Angus Redford and me because that was not our intention. We were acting in good faith on behalf of people who had approached us. Their arguments made good sense, I thought, and I took up their case as I would take up the case of any other constituent who approached me to iron out a problem with the community benefit in mind.

CAFFEINE

The Hon. M.J. ELLIOTT: In the area of drug policy, we have to be very careful that our community does not adopt a double standard. The drug that I will talk about today is caffeine. There is currently an application—

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: For God's sake shut up; I have only five minutes. Currently there is an application before ANSFA for approval for caffeine to be put into all soft drinks. Members may not be aware that in the United States caffeine can be used in all soft drinks. In the United States, drinks like Mountain Dew, which are available here in Australia, contain caffeine. In fact, they contain more caffeine than that found in drinks like Coca-Cola. What is interesting is that scientific work that has been done in the United States in terms of taste testing has shown that something like 90 per cent of people are simply not capable of tasting caffeine. It is therefore quite obvious that the reason that caffeine is being added to soft drinks is its addictive properties and not for taste. In relation to cola drinks, at least it can be fairly argued that cola is a natural source of caffeine and so, if you make a cola drink, the caffeine is part of it.

As I said, there is now an application before ANSFA. It has come in the first instance from a soft drink producer in New Zealand, but it is an application in the Australian jurisdiction, and it would open the door right up. I think members would be surprised to see just how much of the fluid consumption of children today is by way of soft drink. It has been calculated that, if caffeine was allowed into soft drinks other than cola drinks, the caffeine intake of the average child would more than double. Short-term implications for children are for the most part not serious, although I think they could be in one regard. Work done on caffeine shows that the coffee drinker who has their first coffee in the morning and says they have had a real boost is actually coming out of withdrawal, and the caffeine is compensating for the withdrawal they have gone through overnight. So the boost of caffeine is the classic—

The Hon. T.G. Cameron: Are you serious?

The Hon. M.J. ELLIOTT: I am absolutely serious. The work has been done on it. The worry about young kids is not so much that they get onto caffeine and are high, running around the classroom. That is not really the concern at all. There are kids who have large amounts of caffeine on a regular basis, and I have been in many classrooms when they

have not had caffeine for a while and they are actually in withdrawal. That greatly upsets their concentration. It is fairly basic and standard, but it is not a risk that you really—

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: Yes, there is, particularly if you drink enough of it. Most soft drinks at present do not have caffeine, except for the cola drinks—

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: I will get to the next one. Anyone who looks at the market in energy drinks will see that it is expanding very rapidly. Energy drinks are not covered by the rules that cover soft drinks. Virtually all energy drinks have caffeine. Many contain guarana. Guarana is a berry that contains six times as much caffeine as coffee beans. I am not saying that the final drink has a higher dosage than cola drinks have, but people think that they have this wonderful new thing called guarana. The name 'guarana' is written in big letters on the packaging, but what people are not being told and what is not in big letters is that guarana contains caffeine, and precisely how much. I am not calling for the government to ban caffeine—

The Hon. A.J. Redford: That's a relief!

The Hon. M.J. ELLIOTT: What I am saying is that caffeine should be allowed to continue in cola drinks—

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: —but it is not unreasonable that the word 'caffeine' be printed in big letters and the quantity be made known.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: If you think it is a joke, you ought to do a bit more reading about it, because it is quite serious.

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

WOMEN, ELECTION

The Hon. A.J. REDFORD: There has been considerable publicity recently concerning elections, from issues associated with pre-selections—for example, Enfield and the ALP—to issues associated with federal and state elections, to the current extraordinary scenario being played out in the US presidential election, to recent first time elections in East Timor and in Indonesia.

Today I want to talk about an interesting issue that arose in the 1959 state election. The matter was well reported in the case of the Queen v. Hutchins, ex parte Chapman and Cockington. Following the issue of writs for the 1959 election, two women were nominated as candidates, one Mrs Jessie Cooper, nominated as a Liberal candidate, and one Margaret Jane Scott. Upon hearing of the nominations, Frank Chapman and Arthur Cockington applied for an order of the Supreme Court directing the returning officer to reject the nomination papers and provide ballot papers that did not contain the names of any female person. Messrs Chapman and Cockington were represented by Dr Bray QC and Mrs Cooper by Mr Hannan QC, and Mrs Scott was represented by D.A. Dunstan. Mr Roderick Chamberlain QC, the Solicitor General, intervened on behalf of the state. Mrs Scott was an endorsed ALP candidate and Mrs Cooper, who was subsequently elected, was the endorsed Liberal candidate. The applicants were also candidates for the election.

Dr Bray submitted that there is a rule of statutory interpretation held by the court in South Australia relating to public functions that are to be deemed not to include women in general expressions like 'member' or 'person'. He went on and forcefully put the argument that, because women were not specifically granted the right to sit in the Legislative Council but were only granted the right to vote in 1893, their nominations should be rejected.

It is interesting to see that the judges in those days confronted the issue front on. His Honour Justice Abbott found after a lengthy dissertation that the Supreme Court had no jurisdiction, that the Court of Disputed Returns had jurisdiction, and therefore dismissed the case. Justice Piper, in a similarly courageous decision, also found that the court had no jurisdiction. He then went on and said that, as he, being the senior puisne judge, would comprise the Court of Disputed Returns, he would not make any comment about what he would decide if the matter had gone before him following the election.

I must say it does remind me of a TV program in *Misleading Cases* when our erstwhile hero called the senior judge into a junior court as an expert witness on the law, where the expert witness gave evidence to the fact that he would overrule any decision unfavourable to his friend on appeal. In any event, to his credit, Justice Mayo did make an actual finding and did find that women were entitled to stand on their merits just in case the jurisdictional argument failed.

The significant aspects that drew my attention to this case were, first, the difficulties that women in those days had to go through simply to become candidates for an election, let alone subsequently be elected. One must pay tribute to both Mrs Scott and Mrs Cooper for the difficulties that they confronted. Secondly, it is an extraordinary endorsement of the advocacy skills of Dr Bray. We all know that Dr Bray was a small 'l' liberal who held quite enlightened views on many issues in this state. Notwithstanding his personal views, he argued the case both forcefully and strongly. One can only admire his advocacy skills. My final comment is that I am indebted to Mr Michael Abbott QC for bringing this rather interesting case to my attention.

SPINAL RESEARCH

The Hon. R.K. SNEATH: I was going to refer to a speech made by the Hon. Legh Davis a couple of weeks ago on the subject of political correctness, but I see that *Hansard* has since made that speech actually politically correct for him. I thought that that would not be very positive, so I thought I would touch on the contributions of the Hon. Mr Davis in the past 20 odd years, but I thought that would not be any good either because I would still have four minutes and 20 seconds of my speech to go.

I overheard the Hon. John Dawkins, whom I consider to be one of the more sensible members of the government, say that members should use this period to talk about something positive, so I would like to speak about the Spinal Research Fund of Australia, an organisation that raises money and campaigns for the cure of spinal cord injury.

Five years ago, almost no research was being performed in Australia on spinal cord injury. Fortunately, today, as a result of support from compulsory third party funds, researchers are being drawn into the field of spinal cord injury research with increasing enthusiasm. An Australian contribution to the worldwide effort would have several advantages. It would ensure that overseas advantages were immediately available to Australian communities, reduce costs within the community associated with spinal cord injury, strengthen

local industry, create jobs for scientific researchers, and maintain this nation's scientific reputation and credibility.

Already Australian researchers have developed a method to stimulate damaged nerve fibres to grow past the site of the spinal injury. Many other obstacles standing in the way have been successfully overcome in Australia since this research started. I understand that the Spinal Research Fund has received a total of $2 million from motor accident insurers, corporate and government bodies and other sectors of the community. This leaves the Spinal Research Fund some $1.5 million still to raise.

In the past three or four years it has been my pleasure to have a close association with Mr Neil Sachse, whom most members would recall as being a fine athlete who played Aussie rules football in the top level before he suffered an injury. We can only imagine what it does to people of such fine fitness and physique playing at the top level of a sport when they suffer such an injury. It must certainly take a special sort of person to mentally overcome the difficulty of going from that sort of athlete to doing something else with your life. We have just watched the Paralympics and seen many fine athletes disabled through various sorts of accidents and birth defects and in wheelchairs, and we are certainly very proud of them.

Neil has been the Executive Officer of the Spinal Research Fund since 1994 and has been the driving force behind a lot of fundraising, which has allowed beneficial research to be conducted. Neil has devoted his efforts not only to the Spinal Research Fund in raising funds for research to find a cure for spinal cord injury, because among the other organisations to which Neil has contributed his fundraising efforts are the House of Rock Wombat, the objective of which is to help homeless youth; the Asthma Foundation of South Australia; the Royal South Australian Deaf Society; and the Bedford Industries Rehabilitation Association. I have no doubt that South Australians are indebted to Neil Sachse and others like him for the work that has been done and the progress that has been made in organisations such as those that I have mentioned.

ROSEWORTHY INFORMATION CENTRE

The Hon. J.S.L. DAWKINS: The new state of the art information centre providing a wide range of services to farmers, educators, agribusiness consultants and community based groups was officially opened at the Roseworthy campus of the University of Adelaide by the Deputy Premier, the Hon. Rob Kerin, on 4 November. I was pleased to attend this event. The Roseworthy Information Centre is an initiative of Primary Industries and Resources SA, with support from the university, the Advisory Board of Agriculture, the South Australian Farmers Federation and TAFE. The centre has been set up to provide access to the latest information and technologies for primary industries, natural resources, farming communities and the educational sector.

Major users of the Roseworthy Information Centre will include:

- grain, horticulture, livestock, fishing and aquaculture industries;
- environmental managers and consultants;
- a wide range of industry and community groups;
- agribusiness, consultants and service providers to the farming and rural communities;
- research, media, information and policy organisations; and
- staff and students from educational institutions.

The Roseworthy Information Centre provides the latest information products from a wide variety of sources. These include PIRSA, other state government agencies, CSIRO, universities, research and development organisations including cooperative research centres and the federal research and development corporations across rural industries, Topcrop, the Kondinin group, and many more. The convenient web site provides 24 hour a day access to the information products. The centre's state of the art computers can be used to explore the latest electronic information products, including the internet, CD-ROMs, online cameras, DVDs and other software.

The Roseworthy Information Centre can assist with product launches and displays, the distribution of information products, industry events, agribusiness tours, workshops and training and information searching. The Roseworthy Information Centre is also a NetWorks for You training centre. The centre also has 10 000 fact sheets available, with an 'easy find' system making it simple to retrieve specific information. Although the centre will become the hub for information delivery, information can also be accessed from the network of PIRSA officers and industry agencies throughout the state. It will also be linked to the new Services South Australia initiative, which involves a one stop shop approach to the delivery of government services to regional communities.

Farmers and rural South Australians in general will benefit from this new centre, which is part of a $4.8 million development of the Roseworthy campus being undertaken jointly by Primary Industries and Resources SA and the University of Adelaide. Roseworthy Campus Director, Professor Simon Maddocks, and Information Centre Manager, Ms Jan Ward, are to be congratulated on their work in establishing this modern centre which, interestingly, has been transformed from being a surplus shed on the campus. I commend them for their desire to continually add to the material available at the centre, including gathering information about the various regions of the state. That aspect is important, because the 14 regional development boards in regional South Australia have all developed their own material in relation to the attributes of their areas. I am pleased to learn that that material will be readily available in the Roseworthy centre.

HAWKE, Dr A.

The Hon. NICK XENOPHON: I rise to pay tribute to Dr Anne Hawke, an economist who died at the age of 33 on 30 August this year. Dr Hawke was a good friend of mine. She advised me on economic issues with respect to gambling, and her death was a great tragedy. I thought it appropriate that I should read into *Hansard* excerpts of an obituary published in the *Australian* of 7 September headed 'Innovative thinker thrived on fresh challenges'. This obituary sums up her achievements for the South Australian community and the extent to which she was respected by her colleagues and friends. The obituary, which was written by Anne Hawke's family, friends and colleagues, states:

> Her enthusiasm, sense of justice and keen intellect were great gifts and it was clear that she shared them abundantly with others in her personal relationships and work. A cranial haematoma cruelly cut short her life.
>
> Anne was recognised for her contribution to the field of economics, particularly labour economics. She was an innovative thinker and an engaging speaker. She completed her doctorate at the Australian National University in 1992 on Full and Part-time Work and Wages: an Application to Two Countries. This work identified the individual factors contributing to work outcomes, particularly for women in Australia and the US.

The article further states:

> Anne was a driving force behind the establishment of the Centre for Applied Economics School of International Business at the University of South Australia in 1999. She had begun diversifying her research and analysis beyond labour economics. She was exploring the general field of harm minimisation, applying it to encourage progress and institutional reform while softening the negative aspects. In this regard she was the leading contributor to the debate on gambling in South Australia and the recent Productivity Commission inquiry.

I travelled with Dr Anne Hawke and Professor Richard Blandy of the University of South Australia last year to make a submission to the Productivity Commission's inquiry into Australia's gambling industries. Dr Hawke, together with Professor Blandy, made a vital contribution to that inquiry, in that their work on the assumptions made by the Productivity Commission and on the consumer benefits and costs of gambling were, in effect, quite ground breaking, and I believe actually led to the Productivity Commission's altering its figures as to the potential net benefits of gambling quite significantly, and for that I am very grateful.

The obituary goes on to say that Dr Hawke was a frequent media commentator on labour and industrial relations matters. She had a knack for distilling and making relevant the dry rational economic concepts. On one occasion she received an anonymous call on talkback radio and knew instantly it was her scuba diving buddy. He asked a particularly challenging question, to which she responded with gusto. She thrived on challenges and they brought out her best. The gentle sparring continued on one of Anne's causes—government responsibility to ameliorate the detrimental effects of gambling on the community. Governments, she argued, needed to accept responsibility for the adverse effects of gambling if they were to benefit from the proceeds.

In terms of Dr Hawke's contribution, it was recognised not only in Australia but overseas. To quote Nan Stone, Editor of *Harvard Business Review* and a supporter of Anne's application for a Fulbright senior fellowship award for 2001 for research in the US, she said:

> Her record of accomplishment would be a remarkable legacy for someone twice her age. The fact that she is not able to continue to convert her dreams and passions into actions diminishes all of us as friends and equally as citizens of one world.

I will miss Anne Hawke. She was an outstanding South Australian. She was a person who made a great contribution to her community, and I extend my sympathies to her husband Andrew Parrott, whom she married on 26 January this year, and to her friends, family and colleagues, particularly Professor Richard Blandy. I will miss her and I hope that her achievements will have a lasting legacy for the South Australian community.

BOTANIC GARDENS AND STATE HERBARIUM

The Hon. IAN GILFILLAN: I move:

That the regulations under the Botanic Gardens and State Herbarium Act 1978 concerning admission charges, made on 31 August and laid on the table of this Council on 4 October, be disallowed.

I do not intend this to be a wide-ranging contribution covering all aspects of the parklands, although I am sorely tempted to do so, but I must share with the Council this particular observation. It is my wont early in the morning to run on parts of the Victoria Park parklands, and I share that pleasure with Jan Davis and her husband Peter. We were virtually compelled to observe that the general ambience of that area has been starkly destroyed by a gulag-type fence of two-metre fabric and then two barbed wires on top, which hardly enhances the ambience of gentle recreation in the parklands. I will not digress any more unless I am provoked.

The target of my motion for disallowance is the regulation relating to admission charges for the rose garden: $3 per adult, $1.50 per child or concession cardholder, $7 per family and $2 per adult in a group tour. It is unfortunate in a way that, when we move for disallowance of regulations, they must be dealt with in toto because, although there may well be an interesting discussion over the charges for the conservatory, that is not the target of my disallowance motion in its specific case, and I make that clear in moving this motion.

I intend to come back to the regulations in a while, but first I want to set the scene for the Council. I refer to an excellent book on the parklands entitled *Decisions and Disasters: Alienation of the Adelaide Parklands*, by Jim Daly, which has often been quoted in debate on the parklands. It is an invaluable work to refer to and I recommend it to any member who wants to find out more about the parklands, pretty well up to the present day. On page 166, in a paragraph headed 'Intangible values of recreation in the parklands', Mr Daly states:

> Undoubtedly the recreational use of the parklands has increased over the years as people have now more time and mobility for leisure activities. As rising costs of petrol curtail the use of the car for longer trips to the country or distant national parks, competition for the present space will increase. This requires a balanced approach to the management of this finite resource rather than the conversion of additional parklands to sporting grounds in an attempt to meet an almost impossible demand.
>
> With good management, the return of government reserves over the years can bring about the development of additional open space to satisfy limited new demands. Recreation has an intrinsic quality, an 'attitude of mind' which is often apparent in an appreciation of the natural world. Aesthetic values associated with the parklands are therefore as important to many people as active recreation or sport.
>
> It is difficult to measure the visual importance of the parklands too, for example, the motorists and the commuters on public transport, who pass through the parklands to and from their places of work. Also, those intrinsic values are important to the people who have decided to live in residential areas near or overlooking the parklands as they are conscious of 'the magnificent views across the parklands encircling the city to the Mount Lofty Ranges'.

That quote typifies what I believe is an underrated value of the parklands, underestimated by many who are so determined that the parklands are there to have some sort of edifice, structure or enclosure placed on them. It is a constant, ongoing battle.

I turn to page 174 of the same book and a paragraph headed 'Hackney Bus Depot', which reads:

> In 1908 the state government alienated land formerly used as a government experimental orchard in Hackney Road for the construction of a maintenance and storage depot to service Adelaide's electric trams. In 1977, the Dunstan government made a commitment to move the Hackney Bus Depot workshops to Regency Park. This provided the opportunity for a substantial area of 13.5 acres (5.46 hectares) to be returned to parklands.
>
> As a result of the Tomkinson review, the Premier, John Bannon, announced on 16 June 1985 that the state government had acquired the United Motors site at Mile End for $6.6 million to relocate the bus depot. The Premier said:
>
> > It would be the first major restoration of parklands since alienation of parkland areas began when the site was taken over amid controversy for the tram depot in 1908.

It is quite clear that the intention of the then Premier was that that area be returned as parklands. He was goaded in debate in the House by the current Premier, John Olsen, to get on with it, and those quotes are easily found in *Hansard* and can be readily referred to. The interpretation and the expectation of the public was that return to parklands meant return to parklands, not to be covered with other material, buildings and, in this case, a rose garden fenced off from access by the public. It was not envisaged, I do not believe even by Premier John Olsen at that stage, that it would involve anything other than returning that area to genuine parklands. Genuine parklands means open space that is freely available for ready access, so it is neither fenced nor does access to it have a charge.

I refer now to some paragraphs in the minister's report which justifies the regulations. The regulations are over the hand of the Hon. Iain Evans MP, Minister for Environment and Heritage and Minister for Recreation, Sport and Racing. Under the paragraph headed 'Background', the report states:

> The development of the Adelaide International Rose Garden is a state government mandated component of Stage 1 of the Botanic, Wine and Rose Project, on the previous STA site at Hackney.

It is on the STA depot site at Hackney, the area that was pledged to be returned to parklands by Premier Bannon and by the then Leader of the Opposition, John Olsen. It continues:

> On effective completion of Stage 1 in October 1999, the Adelaide International Rose Garden became the responsibility of the Department for Environment and Heritage and, in particular, the board of the Botanic Gardens and State Herbarium as an extension of the Adelaide Botanic Garden.

I interrupt the reading to make this observation: the Botanic Gardens notably has free access. One of the charms and values of a botanic gardens is that the public can move freely into that area. It will not impose any financial burden to have access to it. When we see that this is to be viewed as an extension of the Adelaide Botanic Gardens, at least on that argument as well there should be the expectation that there would be no fee or charge for access. It continues:

> The final report of the Public Works Committee on this part of the project dated August 1998 acknowledges that the cost of maintaining the Adelaide International Rose Garden will 'incur annual expenditure of approximately $290 000' and thus the need to 'realise approximately $60 000 to $90 000 in revenue from an entrance fee'.

The Adelaide City Council puts millions of dollars into the maintenance and enhancement of the parklands and it does not gain a dollar in revenue from charges and entrance fees. The final comment in relation to this document is rather a wry one, as follows:

> Further, the regulations have been amended to enable an increase in the entrance fee to the Bicentennial Conservatory so that they are consistent with those fees charged for the Adelaide International Rose Garden.

I can see a leap frog game that could be entered into with eventually the fees being ratcheted up to cover what is perceived as a public obligation to pay for people's access to roses and plants, which in many cases have been taken from the Botanic Gardens, in an area which is theirs: they would be charged to have the right to move into that area.

It is my view—and I know I do not hold this view alone by any means, and I detach the argument for disallowance from any argument as to the pros and cons of the rose garden—that it does not give the image of open and free access. It has a fence structure which looks like a palisade around a compound. It is rather forbidding. I hope for the virtue of visual impact on passersby that roses will cover the stark metal spikes which surround the area.

I emphasise in moving this motion of disallowance that many people have come to me indignant that there is a charge imposed on access to the rose garden. Although it would certainly be very satisfactory for me to move into a debate as to the pros and cons of the rose garden per se, I resist that. I do not think that is appropriate to this disallowance motion. The disallowance motion is purely and singly based on the premise that we should not in principle or in morality be charging the public access to an area which was promised to be returned to them as parklands.

The Hon. L.H. DAVIS: I was not intending to speak, but I want to respond to this not so magnificent obsession that the Hon. Ian Gilfillan has with respect to anything associated with a parkland. In my five minute contribution, I highlighted some of the moral rectitude, hypocrisy and political correctness that is tending to dominate and stifle the growth of the City of Adelaide. There is no less an example than from the Leader of the Australian Democrats himself who on two, if not on three, occasions in this Council railed against the evils of the Memorial Drive extension, the recreational extension adjacent to Memorial Drive. Yet that same leader of the Democrats, the Hon. Michael Elliott, has the hypocrisy to go there and use the facility.

It is a bit like the Hon. Nick Xenophon railing passionately against poker machines yet being seen pulling the handle of a poker machine in a hotel. I know that Nick Xenophon would not do that, but for the Hon. Michael Elliott to prate publicly about the dangers and evils of an extension in the parklands—and, no doubt, the Hon. Ian Gilfillan would have shared that view with him—and then to use that facility shows what two-faced hypocrisy exists among the Democrats. I am appalled. We saw this purist approach earlier when we opened, after a decade of neglect, that wonderful facility at Mount Lofty. The Hon. Mike Elliott grabbed page 1 of the *Advertiser* by saying, 'You should not cut down the trees: people might see a view'—never mind that the trees are only regrowth eucalypts 10 or 15 years old. That is the level of debate.

Let me get onto the rose garden and address the motion and, in particular, address some of the rantings of the Hon. Ian Gilfillan. Let me remind members that a significant number of public institutions, for better or for worse, are on parklands. Let us just run through the list. In relation to the Victoria Park Racecourse, the Hon. Ian Gilfillan might have traversed that area on occasions and perhaps have done some damage to that parkland and the native grasses as a result of his irresistible jogging. Victoria Park Racecourse on race day actually charges a fee for admission to the parklands.

The Hon. Ian Gilfillan: You are wrong. It does not charge a fee.

The Hon. L.H. DAVIS: So you get in for nothing?

The Hon. Ian Gilfillan: It is one of the conditions of the lease. There will be no charge for access.

The Hon. L.H. DAVIS: You do not pay anything to get into Victoria Park? Is that what you are saying? Are you saying someone going to Victoria Park pays nothing?

The Hon. Ian Gilfillan: There is no charge to have access to the flat at Victoria Park. It is part of the lease.

The Hon. L.H. DAVIS: You are twisting the truth again. I am saying that, if you go into the grandstand and want the amenity of the grandstand facilities, you pay an entrance charge.

The Hon. Ian Gilfillan: You are backing off.

The Hon. L.H. DAVIS: I am not: you are backing off. If you go into the grandstand, you pay a fee. If you go to the derby at Victoria Park, you pay a fee. Correct? Yes, correct. If you go to the Adelaide Zoological Gardens, do you pay a fee? Indeed, you do. Where is the Adelaide Zoological Gardens located? It is located on Adelaide parklands.

The Hon. T.G. Roberts: Can I ring a friend—

The Hon. L.H. DAVIS: You can take a friend. You would probably find one there. You would not need to bring one: you would find one there. The Royal Adelaide Hospital is on parklands and some people have to pay to go there, depending on their medical status. If you go to Memorial Drive to a tennis match, you pay a fee. Indeed, the Hon. Mike Elliott, I would have thought, having railed against the monster which is located adjacent to Memorial Drive, that recreational centre, I suspect would pay a fee. It is his monster which he has now embraced: he has embraced the devil. He pays a fee to go to that facility. The leader of the Democrats pays a fee to go into the gym or to swim—whatever he does down there. I have not inquired, but I know he swims. He pays a fee to go to that facility on parklands. Why is he doing that?

The Hon. Ian Gilfillan: Or the aquatic centre does the same.

The Hon. L.H. DAVIS: Of course, the Hon. Ian Gilfillan advances my argument even further by reminding me that the aquatic centre on Barton Terrace, North Adelaide, charges a fee. If we did not collect fees from this and the state budget deficit was even greater, if some of these facilities were managed by state government or the Adelaide City Council, the Democrats would be on the other side of the argument attacking the deficit and saying, 'You should not have this deficit.'

Of course, you have the Adelaide Oval—no less a venue than the Adelaide Oval. I will ask the Hon. Ian Gilfillan, because he enters into the spirit of these debates: are you a member of the Adelaide Oval?

The Hon. Ian Gilfillan: No.

The Hon. L.H. DAVIS: You are not a member of the South Australian Cricket Association?

The Hon. Ian Gilfillan: No.

The Hon. L.H. DAVIS: I bet we could find a few Australian Democrats who are members and who pay fees to go onto the parklands, which happen to be styled the Adelaide Oval. That is the difference between the Hon. Ian Gilfillan and me. I try to live in the real world: he floats above it. Ultimately, there will be 10 000 plantings in the rose garden.

The Hon. T.G. Roberts interjecting:

The Hon. L.H. DAVIS: The Hon. Terry Roberts is just too kind. The prickly end of the rose garden will be named after him. Adjacent to the rose garden is the first international trial garden in Australia where new varieties of roses are tested intensively over a period of time. Adjacent to the rose garden will be the National Wine Centre which will, of course, lead to the wine and roses theme an irresistible attraction for tourists. Immediately behind the rose garden is the Bicentennial Conservatory, which was designed by Guy Maron. I would like to think that when the great buildings of the 20th century are being catalogued our tropical conservatory will be right up there and recognised as one of the finest buildings in Australia. There has always been a charge for the tropical conservatory. There are practical reasons for that including the fact it costs money to run a tropical conservatory. In fact, as I speak it is closed for maintenance purposes.

Inevitably, it will also require a lot of work in looking after 10 000 roses. I am sure that when it comes to deadheading we could ask some of the Australian Democrats to assist in that process. One can understand why it might be necessary to make a charge for the rose garden, modest as it is. I have visited gardens in other places where the admission costs are considerable. Of course, the Hon. Ian Gilfillan in his comments has not advanced the proposition—which, if he is to be consistent, he should—that the public should not have to pay to attend functions in Botanic Park because that is also on parkland.

Let me talk about this point. We have Tasting Australia, which has become a regular biennial event in Botanic Park adjacent to the International Rose Garden. Tasting Australia celebrates the food and wine for which South Australia is becoming nationally, and indeed internationally, famous. I pay a tribute to my colleague the Hon. Caroline Schaefer for her efforts in promoting the Food for the Future concept, which I think has been one of the great success stories of this current government.

Tasting Australia charges a fee for admission. In every other year, when Tasting Australia is not being held, we will have the International Rose Festival, the first of which was held last month. Again, there was a charge for that festival. I do not know whether any of the Australian Democrats visited that festival, but I suspect that they would have and, if they did, they would have had to pay a fee to go on to the Adelaide parklands and enter that festival. The fee was $11, as I recall, and there were concessions for seniors such as the Hon. Ian Gilfillan, who might have gained entry for a little bit less if he wanted to go. Of course, when the festival is not on, you can jog through that area.

What we are doing with events such as Tasting Australia and the International Rose Festival is using the parklands for a very practical purpose. I would think that one of my heroes, Colonel William Light, would have been proud to see the practical way in which we are embracing and using the parklands. I refer to the earlier debate on the Adelaide Bowling Club, which I initiated, and how evil it is to have a bowling club with poker machines on the parklands! I remember when there was wire fencing all along Dequetteville Terrace, and there were cows and it was dusty. Little kids like me who attended the school on Dequetteville Terrace used to hop through that fence and use it as a shortcut into town after school. You did not find people relaxing there. There was no rose garden on Dequetteville Terrace. Now there is this wonderful facility which is used for weddings and picnics and which people enjoy. That area of Rymill Park has been developed in a very sensitive fashion. Indeed, the Hon. Ian Gilfillan should be reminded that, horror of horrors, there is a café in Rymill Park which actually sells things. If we are to be consistent, they should be giving away the Mars Bars and the milkshakes rather than charging for them, because it is located on the parklands. What a nonsense!

The Hon. Ian Gilfillanos someone for whom I share a close affection with many other colleagues here, in his not so magnificent obsession in his role as the preserver of all things parklands occasionally loses the pace of the pitch. I believe that this motion is very much one of those times. I strongly resist this proposition to disallow the admission charges to the rose garden. I think there are very practical reasons to have a modest charge. The feedback that I have had is that people accept it. There have been a few letters in the newspaper

about that, but of course that is Adelaide. As I said before, Adelaide's media has encouraged people to feel bad about things, to look on the negative rather than the positive. I think that, in two or three years when the rose garden has grown somewhat and the wine centre is in action, we might even find that the Hon. Ian Gilfillan will move in this Council a motion of congratulations on the development of the wine centre and the rose garden. I hope to see that.

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

LOTTERY AND GAMING ACT

The Hon. NICK XENOPHON: I move:

That the regulations under the Lottery and Gaming act 1936 concerning interpretation variation, made on 17 August 2000 and laid on the table of this Council on 4 October 2000, be disallowed.

To put this issue into context for members, I refer to a document headed 'Minutes forming enclosure to: The Secretary, Legislative Review Committee—Regulations under the Lottery and Gaming Act 1936', which states:

The main industry representative groups involved in telephone entry trade promotion lotteries have, as a matter of urgency, sought an increase in the 50¢ limit on telephone call costs allowed for entry to such lotteries. The imposition of the 50¢ limit on the cost of entry into a trade promotion lottery recognises that, within a reasonable limit, intending lottery participants should meet the expense of making an application to participate in the lottery. Industry expressed concern that as from 1 July 2000 the viability of some telephone entry trade promoters is under threat from an effective reduction of 10 per cent in revenue resulting from the fee cap and the introduction of the GST.

The regulated maximum entry cost of 50¢ for trade promotion lotteries has remained unchanged since its initial promulgation in May 1998. Without an increase to the entry cost limit, trade promotion lottery licensees, Telstra and the Service Bureau will need to absorb the GST. To ensure that operators in the trade promotions industry maintain their profit margins existing prior to the introduction of the GST it is proposed that the regulations come into operation on the day they are made pursuant to section 10AA of the Subordinate Legislation Act 1978.

The increase in the entry cost threshold to 50¢ plus the GST has been agreed to in Victoria, New South Wales, Western Australia, Australian Capital Territory and Northern Territory.

In Queensland telephone entry trade promotions are regulated under the Interactive Gambling (Player Protection) Act 1988 and in Tasmania trade promotions are regulated under the Fair Trading Act 1990. The cost of entry is not regulated in these jurisdictions.

I understand that the telephone costs, which the regulations have increased, with respect to trade promotion lotteries initially were about cost recovery for promoters of trade promotions and were not meant as a mechanism to raise revenue or to fund the source of the prizes on offer. That is what it was about, but in recent years we have gone way beyond that.

That goes against the grain of the whole idea of a trade promotion lottery. Some would say that trade promotion lotteries, as they exist today, have become a rort when you consider their initial intention. Let us analyse this in very simple terms. The whole idea of a trade promotion lottery is to ensure that there is reasonable cost recovery for those involved in such a trade promotion. These regulations highlight the fact that it has gone way beyond that and they provide an opportunity to analyse and scrutinise what has occurred with respect to trade promotion lotteries in this state and in other states over a number of years. It is a consumer protection issue that should not be ignored.

When one honourable member spoke to me about this recently he told me of the complaints he had heard of parents who get huge phone bills because their children have access to these trade promotion lotteries. They are promoted heavily and constantly, even during children's viewing times, and the parents are left with huge phone bills because the kids do not understand the cost involved in these trade promotion lotteries, particularly when there is aggressive advertising to encourage children to participate without adequate warnings and controls.

Let us look at some of the assumptions made in these minutes. There is an assumption that, because telephone charges have gone up, there are costs involved and that the service providers, including Telstra, need to be protected. My understanding is that in the past few years telephone charges have reduced significantly because of competition. So this argument that their margin has to be maintained would be all well and good if it was totally fixed without a competitive framework, but the fact is that telephone charges have gone down. So that argument by the industry that it needs to be protected because of increased call costs is, to me, a furphy given the level of competition over the past few years. Given the new entrants in the telephone market, I would have thought that the cost reductions would have at least maintained or increased their margins.

The Hon. T.G. Roberts interjecting:

The Hon. NICK XENOPHON: The Hon. Terry Roberts asked me, 'Is there a breakdown of any figures as to the revenue the trade promotion lotteries bring in?' I do not know what those figures are. This is an industry that has operated unchecked over a number of years. It is an industry that I believe has made enormous profits, but we simply do not know much about it. It does not have the same degree of regulation as do other industries. We know how much the Lotteries Commission, the TAB or even poker machine operators make in terms of their revenue stream, but we do not know about these trade promotion lotteries—and that is something to which I will refer shortly.

The Hon. R.R. Roberts interjecting:

The Hon. NICK XENOPHON: Exactly. The Hon. Ron Roberts says that we do know that these regulations will ensure that their profit margins remain high, and there is a real issue there about very basic accountability. Just because other states have gone down this path to increase these charges to allow for the GST where it is alleged that there is a 10 per cent reduction in revenue, that is something that ought to be analysed as well given the potential benefits that some of these businesses may have had with respect to their input costs as a result of the GST.

I wonder whether in some respects this is an ambit claim that some states have fallen for. There are a whole range of competitions that are well known, particularly *Who wants to be a millionaire*. Given media reports I have seen in relation to that program in particular, I understand that on many evenings it receives hundreds of thousands of calls nationwide at 50¢ a pop, or 50¢ plus 10 per cent in other states now, which generates an enormous amount of revenue. So it seems that the people who not only want to be a millionaire but are guaranteed to be one are the promoters of these lotteries. This is money for jam for them, given the very nature of the structure of trade promotion lotteries.

For this regulation to further entrench their privileged position is something that I believe ought to be the subject of debate in this Council. This is an industry that has grown unchecked at an exponential rate without adequate safe-

guards, especially for children. These regulations, in effect, entrench this industry's lucrative position. They should be disallowed in the absence of substantive answers to these concerns. I commend the motion to the Council.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PENALTIES) AMENDMENT BILL

In committee.

(Continued from 9 November. Page 414.)

Clause 3.

The Hon. R.D. LAWSON: The Hon. Nick Xenophon has an amendment on file and it relates to a proposal that prosecutions can be instituted for offences against the Occupational Health, Safety and Welfare Act by not only, as is the case now, the minister or an inspector, but also an employee or representative of the employee, including a member of the employee's family. The amendment provides a definition of 'family'.

The amendments of the Hon. Nick Xenophon comprise not only this extension of the class of persons who can institute prosecutions but also a provision (proposed new section 61A) which would enable the court to order payment to be made from any fine that is levied to an injured worker. On the last occasion that we considered this bill, the government indicated that it was opposed to that because it compromised the integrity of the workers' compensation system and was, notwithstanding protestations to the contrary, a backdoor way of returning to common law damages.

There were discussions since the matter was last before the Council involving the mover of this amendment, the opposition and the Hon. Mike Elliott, and I also had discussions with the Hon. Terry Cameron and the Hon. Trevor Crothers, seeking a way of reaching some accommodation that would enable this very beneficial measure to continue, namely, the increase of penalties. The government's proposal is embodied in an amendment which I have on file and which would for the first time enable prosecutions to be instituted by a person who is injured in consequence of a contravention of this act provided that that prosecution was launched not immediately but after due time to enable the inspectorate to prepare the case and launch a prosecution if that was the intention.

I might say that the prosecution policy of workplace services has been greatly refined in recent months. The policy is now on the web. It is a publicly available policy. It is one that has been developed in consultation with the crown law authorities and there has been a great deal of attention payed to training inspectors in how to appropriately take statements and prepare statements for prosecution. It recently reported to the Occupational Health and Safety Advisory Committee upon these developments and a report was given on a confidential basis of a large number of investigations and inquiries that are presently being undertaken.

As I mentioned in answer to the Hon. Michael Elliott on a previous occasion, the ERIC web site does contain particulars of all prosecutions that have occurred in recent years and the results of those prosecutions. What the government proposes is a refinement of that which the Hon. Nick Xenophon is proposing. It would enable, as I mentioned, any employee to institute prosecution provided 12 months had elapsed from the date of the alleged offence. The inspectorate would then be given a further six months in which to launch a prosecution. If no prosecution was launched, the employee could do so. Indeed, the employee could do so beforehand with the minister's approval. I believe that the government's proposal rather than this clause proposed by the Hon. Nick Xenophon is the appropriate approach to take and is consistent with the agreement that has been reached in discussions.

The CHAIRMAN: The Hon. Nick Xenophon has not formally moved his amendment.

The Hon. NICK XENOPHON: Before I withdraw my amendment, I propose to—

An honourable member interjecting:

The Hon. NICK XENOPHON: It is not actually in there?

The CHAIRMAN: We are debating clause 3. I shall try to run it from this table.

The Hon. NICK XENOPHON: I propose to ask the minister several questions arising out of what he has just told the committee—

The CHAIRMAN: Yes, we can pursue that.

The Hon. NICK XENOPHON: I thought that might be a useful way to proceed so that this can be dealt with.

The CHAIRMAN: Is the honourable member indicating that he will not move his amendment or will he make that decision later?

The Hon. NICK XENOPHON: I am indicating that I would like to ask the minister some questions first. I commend the minister because at least, after a number of months of considering this matter carefully, an amendment has been proposed. Whilst it does not go as far as the initial amendment with respect to who has the right to bring the mechanism of a prosecution, it is clearly a step in the right direction, and I commend the minister for this approach.

I do have some reservations about the amendment and the minister would assist the committee by dealing with the following specific issues in this order: firstly, who has the right to bring a prosecution? The amendment that I have on file provides a definition of 'family' which includes a spouse, a de-facto spouse, an employee and any child of the employee. Obviously, this relates to situations where the worker has died as a result of the injuries. The minister's proposed amendment does not allow for that. It concerns me that that is anomalous and there is a gap, in that respect, because it does not allow the family of an injured worker, closely defined as either the child or the spouse, to bring a prosecution.

The other aspect that concerns me is the issue of time: the approval of the minister is not required unless 18 months has elapsed. My concern is that that period of time is perhaps stretching beyond what may be reasonable in some circumstances for the purpose of gathering evidence and for a successful prosecution to be brought on the basis that the evidence was there to begin with. Further to that, there is the issue of pre-action, discovery and inspection against an employer with respect to a prosecution.

One of the key concerns I have generally with the amendments—and I ask the minister to deal with these concerns—is that, if someone has been seriously injured at work and the inspectorate does not decide to undertake an investigation in the workplace, as is often the case—and I am not saying there is any capriciousness involved in that; it could be that they simply do not have the resources—there is an issue. We know that the inspectorate has been devoting a lot of its resources to the Adelaide Show accident. That is

not a criticism of them, but the fact is that they have finite resources and their resources have been diverted because of that. But if for some reason there is not an early inspection of the premises and a report prepared that could well prejudice an injured worker bringing a prosecution at a later stage quite materially, because the workplace could have been changed, and material that could be used in evidence may no longer be available.

To what extent do the current Industrial Court rules, the proceeding rules, or the Magistrates Court rules for that matter, allow for an injured worker to bring an application for pre-action discovery, pre-action inspection, before the 18 month period, so that the injured worker has an opportunity, if the inspectorate does not act promptly, to bring an application before the courts and have the premises inspected so that appropriate evidence can be gathered in the event that the minister or the inspectorate does not proceed with a prosecution?

The Hon. R.D. LAWSON: If I can first, and I hope briefly, answer the three matters raised by the honourable member. I remind the committee that under this act the present provision is that a proceeding can be instituted only by the minister or by an inspector. In my experience, all proceedings have been instituted by the inspectorate. The inspectorate has an independent discretion to institute prosecutions. That has been the case under this legislation, as it is under most other acts of parliament.

The honourable member asks whether, in the sad case of the death of a worker, should not the family be able to institute a prosecution against the employer? I would have thought that they are the very circumstances in which it is appropriate that there be an independent discretion. Quite a number of the cases where prosecutions occur are cases where there has been a fatality. But not every fatality bespeaks culpable negligence or discloses any occasion for prosecution. Many fatal accidents are purely that, accidents, and it is inappropriate to bring a prosecution.

That is a public discretion, it seems to me, that ought to be exercised as to whether, in those cases, there ought to be a prosecution—something that the inspectors or, if necessary, the minister can make a decision about in the wider public interest. It should not be left to the family to consider taking some action, whether in the memory of their deceased spouse or whatever, motivated by all those sort of emotional considerations that would necessarily apply in those circumstances. It is not appropriate that this occupational health and safety legislation be used as some means of retribution in those unhappy circumstances. There will be a prosecution, and there would always be a prosecution, with a diligent inspectorate and a conscientious minister if there is room and evidence for a prosecution.

So it is for that reason that I am suggesting and the government proposes that we extend the right to a worker who is injured in consequence of conduct that allegedly contravenes the act. The worker himself or herself may institute prosecution, but in those cases where there is a death the right to do that does not actually continue to the estate, family or whatever, because that is really a public function. The honourable member says that the period of 18 months proposed by the government is too long a period to defer a private prosecution if one is proposed. However, the effect of the act is that after 12 months a worker will have the right to apply to the minister for leave to institute proceedings. If the case is such that the minister has decided and the inspectorate has decided that there will not be a prosecution, the minister can grant consent immediately to the worker to institute the proceedings. If, however, for some reason the minister dillydallies, delays or refuses to give consent, after the effluxion of another six months the worker would be entitled to institute the prosecution.

The reason that 12 months was selected, as I am advised, is that these investigations very often take quite some months to undertake. Not only might the worker be injured, for example, and if necessary, have to wait for his or her recovery before a full statement can be taken, but these things very often involve third parties, expert evidence and the obtaining and testing thereof; and they also require the brief of evidence under our prosecution policies to be considered by crown law and legal advice given.

Very often that advice takes some time to obtain. Very often the terms of the advice will be: get further information; have you interviewed this witness or that witness; the witness is on long service leave; and all those other circumstances. Experience has shown not just in recent times but over many years that it does take quite some time in many instances for a case to reach the stage where an inspector can say, 'We have the evidence, so we will proceed. The legal advice is that we have a good case, and we will proceed.' That is why it provides for 12 months.

The government's proposal is that, after the effluxion of 12 months, the worker can say, 'Look, you have not done anything; I want to institute the proceedings.' The minister can then say yes and, irrespective of what he does, the worker can proceed after a further six months.

Finally, in his third question, the Hon. Nick Xenophon asked about the obtaining of documents and the inspection of premises that might be necessary. I have not been given any cases where a worker, his union or solicitor have been denied entry to premises for the purpose of prosecuting any claim, including a workers' compensation claim, which is the invariable case where a worker is injured, where there is a question about whether or not some item of plant was guarded or whether or not the scheme of work was appropriate, and where the inspectors go in regularly to assist the worker in the development of the case for the prosecution of a claim for worker's compensation.

Very often there are quite disputed circumstances about how the worker was injured. Sometimes it is alleged that he was injured while skylarking or otherwise. Those sorts of allegations are made, and they are constantly resolved in the workers' compensation tribunal. I do not believe that there will be any difficulty here in providing for the evidence to be obtained. I am not suggesting it is easy. It is not easy now, but it seems to me that, in this type of procedure, we cannot develop an entirely new regime for investigating industrial accidents.

In so far as documents are concerned, the inspectorate would ordinarily take statements and gather evidence. I would envisage in every case that, where the inspectorate had done that but had decided the evidence was insufficient to move ahead with a prosecution, it would make that evidence available to a worker who wished to institute a prosecution, who would be able to say, 'I do not care about your desire. You do not think it is enough evidence. Well, I want to pursue this.' I would envisage that the inspectorate would make that material available. If it did not, it can be obtained presently under freedom of information.

It could also be obtained, as the honourable member foreshadowed, by a process of what is called third party discovery, where a person intending to institute proceedings

can obtain from a third party who is not involved in the proceedings the documents to enable that to occur. It would certainly be my intention as minister that any conscientious inspectorate would make available material which has been obtained publicly, by public officers, to someone who was directly affected by it so that they can prosecute a claim.

The Hon. T.G. ROBERTS: I indicate that there have been negotiations and we agreed to support the original Bill. The opposition was attracted to the amendments of the Hon. Mr Xenophon. Then the government suggested a compromise, if you like—a slightly differently worded amendment, which is what we are debating now. I indicate that, although I do not accept a lot of what the minister says in relation to the problem that exists out there, we support the sentiments expressed in the amendment.

For those who are practitioners in the field in relation to gathering evidence and documentation, it is difficult for anybody acting on behalf of injured workers to gain access to many premises to complete any sort of investigatory process at all. If you take some of the periods that you may have to wait before prosecutions are commenced, generally the trail goes cold and the gathering of witnesses, the inspection of processes, the identifiable structures which workers find themselves injured by or with disappear, and design features are changed by construction that changes the whole nature of the workplace so that evidence gathering is very difficult.

As the minister says, it is much easier for the crown or government officers to procure the evidence they require to get a prosecution in a court compared with an individual acting on their own behalf using either union support or solicitors acting on their behalf, or both. So, we are left in a position where this is an improvement on the existing situation. As it is an advancement on the existing position, we will support it. It is certainly an improvement on the original bill without the amendment.

The Hon. R.R. ROBERTS: I wish to make a contribution, having been involved in the discussions around this matter for some months. I recognise that the Hon. Terry Roberts takes the lead for the opposition with respect to this. At this stage, I will do something I do not often do, and that is congratulate the minister on having the good sense to draw the parties together to discuss this proposal. We have come a long way from when we began those discussions. When we started out, there was a general reluctance to get involved in the discussions about this, but over a couple of months we have advanced a long way.

I have always been concerned about the situation where injured workers in many cases suffer not only the injury but this feeling that they have been wronged and that nothing is happening, and in the past a prosecution has been able to be launched only by the minister and/or the inspectorate. In my contribution during the second reading debate, I mentioned that, from anecdotal reports, there seemed to be a general reluctance within the inspectorate to pursue claims within the area of occupational health and safety.

My comments sparked a flurry of emails from the inspectorate, but they also flushed out a flurry of information from the inspectorate, signed by 'anonymous' inspectors, and I must say that some of that material is fairly worrying. Anecdotal evidence and minutes have been provided to me about the operations of the department, and they are matters I will take up privately with Minister Lawson.

There is an improvement in the situation, given that, effectively, after 18 months an injured employee may institute an action. Technically, that is not what this motion provides: it provides after 12 months with the support of the minister. It is a very rare case where the minister does not agree with his department. Where an injured worker feels he has been wronged by negligence in the workplace that has caused a serious injury to him—and the family suffers worse when the employee has been killed—they must wait 18 months. Many things can change in 18 months and, in many cases, if the employee or their representative does not have access to the site at an early stage, the site of the accident is changed completely. It is similar when, if you ring up the employer and say, 'We will come and do an inspection tomorrow,' you invariably find that the site is spotlessly clean. This measure does not provide the employee with what I consider to be a reasonable right of discovery at an early stage.

One of the points the minister made when he opposed the amendment moved by the Hon. Nick Xenophon was that he was worried about vexatious and frivolous claims. My submission is very simple. If all the information that is held by the department is provided and they are being properly advised by their industrial advocate in the case of a union member or their lawyer, it would be very rare that, having been given all the evidence the inspectors had, there would be a wide divergence of opinion among the legal representative or industrial advocate and the department.

I commend the process that has taken place. It has not reached the point I would have sought, but it represents an improvement and an opportunity to provide some relief for injured workers. It is capable of getting through not only this chamber but also the other place before the end of the session. Whilst I do not believe the time frames are adequate, I accept that this measure is better than it was and provides some relief for injured workers and their families. I support the minister's amendment.

The Hon. NICK XENOPHON: I endorse the Hon. Ron Roberts's comments in this regard, and I note the Hon. Trevor Crothers's interjection referring to the minister as Awesome Lawson. I do not know whether I want to endorse those remarks. I do not want to praise the minister too much in case he gets thrown out of cabinet or does not get preselected. The process has been a good one, where the minister has been willing to consult on this issue with all the interest groups, and presumably also with the employers. I commend him for an outcome which, whilst it is a compromise, is certainly a step in the right direction. In relation to the issue of obtaining discovery or inspection of premises before a prosecution, rule 60 of the industrial proceeding rules makes reference to that. Subrule 3 provides:

> On a summons or application, the court may also make an order providing for any one or more of the following matters:
>
> (a) the inspection, photocopying, preservation, custody and detention of property, which is not the property of, or the possession of any party, but which relates to:
>
> (i) the subject matter of the proceedings;
>
> (ii) property to which any question arises in the proceedings;
>
> (b) (i) taking of samples;
>
> (ii) observation;
>
> (iii) carrying out of any experiment;
>
> (iv) playing or screening of tape recordings and films and other means of recording sight or sound;

In relation to parties to the prospective proceeding, it also refers to where those inspections can take place. Will the minister confirm, first, that the Industrial Court proceeding rules will allow an injured worker to take action for discovery

and inspection against an employer prior to any prosecution being launched or any action being taken in these circumstances, pursuant to the occupational health safety and welfare penalties referred to? Secondly, in the event that the inspectorate has undertaken an investigation and has taken film or prepared a report and decides not to prosecute, will the minister indicate what the protocols will be for that information from the inspectorate to be provided on the request of injured workers or their representatives?

The Hon. R.D. LAWSON: I am indebted to the honourable member for reading those rules onto the record. I would not want to be seen to be giving legal advice in relation to whether in a particular circumstance documents could be disclosed. As the honourable member would appreciate, these applications depend upon circumstances. It is certainly my understanding that the courts have the power to require disclosure. In a case such as this, I would not have thought it necessary for anybody to need recourse to the Freedom of Information Act to obtain information or the process of discovery. I would have thought that, in the ordinary course, when the inspectorate had undertaken inquiries but decided that those inquiries would not lead to its launching a prosecution, the result of its investigations would be made available to a worker who genuinely wished to institute proceedings.

Some members have talked about one of the difficulties, which is a serious difficulty in prosecuting under this legislation, namely, that the workplace or the scene of the accident is changed, very often quite quickly after the event. For example, if some form of protection has been taken off an item of machinery such as a guard or whatever and an injury occurred, one of the first things that would happen is that a guard is put back on or installed, not within days but within hours. So, even if an investigator were to return two hours after an accident or injury, in many cases the scene will have been changed. The slippery material on the floor will have been mopped away, or the offending and dangerous situation will have been eradicated.

So, the photographer who comes there one or two hours later will often be in as difficult a situation as someone coming weeks or months later. That is simply an endemic difficulty in prosecuting under this type of legislation. One hopes that other workers might have been present and witnessed what occurred, and theirs will be the most critical and cogent evidence that will convince a court. If a statement is taken and their recollection is recorded at the time when matters are fresh in their memory, that is probably the best evidence you will ever have.

The Hon. M.J. ELLIOTT: I will make some brief comments about the amendments now before us. I note that the Hon. Nick Xenophon moved two sets of amendments, one relating to the ability to prosecute and the other dealing with the ability for damages to be awarded. I indicated during the second reading stage that the Democrats would support the amendment in relation to prosecution but not that in relation to damages. It seemed to me that we could have an argument about whether or not common law should apply to the workers' compensation jurisdiction. Effectively, that was what it was creating by another device, in my view. In relation to the ability to prosecute, members of this place would know that I have often argued for third party rights in prosecution in many pieces of legislation. It seemed to me quite anomalous that in the past the injured party did not have the ability to prosecute to seek a conviction.

I am glad that the minister has now brought forward his own set of amendments and note that there is broad support in this place. I am prepared to support the amended form as brought forward by the minister noting, as the Hon. Nick Xenophon said, perhaps off the record, that at least it is a step in the right direction and a useful step at that.

The Hon. T.G. CAMERON: I support the amendment standing in the name of the Minister for Workplace Relations. I join the Hon. Ron Roberts in commending the minister for putting forward a compromise position but in doing so I commend the Hon. Nick Xenophon for accepting the compromise. At the end of the day, politics is about the art of compromise. I have a question about proposed new subsection (8), which provides:

> However, the approval of the minister is required to bring proceedings under subsection (7)(c) unless 18 months have elapsed since the date on which the relevant offence is alleged to have been committed.

Can the minister outline the rationale for providing that gap of six months? What might the circumstances be whereby he would refuse to allow an employee to proceed with a judgment, and that individual would then have to wait six months before they could proceed? What is the rationale behind it and what sort of circumstances would need to take place for the minister not to grant approval?

The Hon. R.D. LAWSON: The circumstances envisaged in my foreshadowed amendment are these. The inspectorate has 12 months in which to gather its case together and let us say that, after the expiration of 12 months, the worker wants to institute a prosecution. If the minister and the inspectorate have in mind that they are about to institute their proceedings, the minister would say, 'No, I will not give you permission to do it now because we are about to institute proceedings. We are waiting for some additional evidence and for those reasons we will not let you do it because we intend to do it.'

However, I also envisage that if after 12 months the minister, crown law or the inspectorate has advised that there is no evidence, the minister would say, 'We do not intend to institute those proceedings now and we are not going to do it in the next six months, so I give you consent to proceed immediately with your prosecution.'

The Hon. R.R. Roberts: It would be much better if you gave him the file at the same time.

The Hon. R.D. LAWSON: In answer to the Hon. Mr Roberts' interjection, I envisage that the contents of the file would be made available at the same time. There might be some circumstances in which there might be some reasons why the file was not handed over. I do not know what those circumstances might be.

The Hon. T. Crothers: Murder.

The Hon. R.D. LAWSON: It might be that some evidence was obtained by illegal means or under some form of compulsion that would make it inappropriate to divulge it, but that is conjecture on my part. In the ordinary course, I cannot envisage the inspectorate having something that it was not prepared to hand over to the worker.

The Hon. T.G. CAMERON: I thank the minister for his answer. In a situation where the minister refused to give an employee permission and subsequently proceeded to launch the application, would the employee have a right to apply to join the minister in that application?

The Hon. R.D. LAWSON: Ordinarily there is no right in any form of complaint or prosecution for the victim, in the case of an ordinary police prosecution, to say that he wants to join Police Sergeant Smith, who is the complainant in the proceedings. That is not available. It is difficult to see why one would do that in any event because the prosecution—

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: It might, but one would be exposing oneself to the possibility of costs where, in the ordinary course, the Crown would bear that liability if it was prosecuting.

The Hon. T.G. Cameron: The long answer is no.

The Hon. R.D. LAWSON: Yes.

The Hon. T.G. ROBERTS: The minister mentioned that the government is moving towards a regime or culture of prosecution that has not existed previously and that training and other programs are being put in place so inspectors will feel comfortable in gathering evidence and formulating programs for prosecution. Can the minister explain whether any extra resources have been provided for that and whether any extra inspectors will be required, if the instructions that have been in operation previously have been changed?

The Hon. R.D. LAWSON: There has been no change in the instructions. When I was first appointed minister and I visited the inspectorate, I was asked what was the government's policy in relation to prosecution and whether the government had a policy that did not favour prosecution. My answer then to the inspectorate, and this is the policy of the government: if the inspectorate is free to institute prosecutions there is no policy that is contrary to prosecution of offenders. There is a policy, however, that our primary role is to endeavour to educate, to improve and to ensure compliance by employers as a first instance. Prevention is far better than prosecution. I make no apology for the fact that there is a focus on prevention and assisting compliance with the legislation. However, if the evidence exists for a prosecution, there should be a prosecution. If offences have been committed, there should be a prosecution.

Additional inspectors have been appointed and I thought that I had the material here but I will provide the honourable member with the details of the additional inspectors who have been appointed in recent times. The program of developing appropriate prosecutorial policies is one that has been undertaken within workplace services and it is simply a function of a changing culture of educating the inspectorate and having one that is better trained and has a better understanding of what is required to produce a satisfactory outcome in a prosecution sense.

The Hon. R.R. ROBERTS: I am mindful of standing orders in that this amendment has not been moved, but I want to ask a question of the minister about his amendment to clause 6, page 4, after line 28, which seeks to insert the words, 'Proceedings for an offence against this act may only be brought by a minister or by an inspector'. Is that meant to be read as 'the inspector' or 'the inspectorate'? Complaints have been raised with me that an inspector has wanted to prosecute under the legislation, as he has a right to, but has been told that his superior is the one who will make the decision. The minister's amendment provides 'by an inspector'. Would the minister clarify that that means that the inspector, satisfied that there has been a breach of the law, can in fact institute a prosecution?

The Hon. R.D. LAWSON: Section 58 of the act presently provides that proceedings 'may only be brought by the minister or by an inspector'. So far as I am aware, that means precisely what it says, namely, an inspector can institute the proceedings. In the ordinary course of events you would expect that an inspector would consult with his superiors because costs are involved in bringing witnesses from here, there or whatever, but the ultimate statutory responsibility lies with the inspector.

Clause passed.

Clauses 4 and 5 passed.

Clause 6.

The Hon. R.D. LAWSON: I move.

Page 4, lines 22 and 23—Leave out 'by striking out subsection (7) and substituting the following subsection' and insert:

by striking out subsections (6) and (7) and substituting the following subsections

Amendment carried.

The Hon. R.D. LAWSON: I move:

Page 4—

Line 24—Leave out '(7)' and insert:-

(6)

After line 28—Insert:-

(7) Proceedings for an offence against this Act may only be brought—

(a) by the minister; or

(b) by an inspector; or

(c) if an employee has suffered as a result of an act or omission which is alleged to constitute an offence against this Act and proceedings have not been commenced by the minister or an inspector within one year of the date on which the offence is alleged to have been committed—by the employee.

(8) However, the approval of the minister is required to bring proceedings under subsection (7)(c) unless 18 months have elapsed since the date on which the relevant offence is alleged to have been committed.

(9) An apparently genuine document purporting to be signed by the minister and to give an approval for the purposes of subsection (8) will be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the approval.

Amendments carried; clause as amended passed.

New clause 6A.

The Hon. NICK XENOPHON: I move:

Page 4, after line 28—Insert:

Insertion of s.61A

6A. The following section is inserted after section 61 of the principal Act:

Payment on account of injury, loss or damage suffered by an employee.

61A. (1) Subject to this section if—

(a) a person is convicted of an offence against this Act; and

(b) it appears to the court by which the person is convicted that an 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 in determining sentence for the offence,

the court may order that a part of any monetary penalty imposed for the offence be paid to the employee, or to a member of the employee's family.

(2) In considering whether to make an order under this section and, if an order is to be made, in considering the amount to be paid pursuant to the order, the court should have regard to the following matters:

(a) the circumstances of the offence (including the circumstances of any offence to be taken into account in determining sentence);

(b) the injury, loss or damage that has been suffered;

(c) the extent (if any) to which the occurrence or extent of the injury, loss or damage is attributable to the actions of the relevant employee, or of another person other than the convicted person;

(d) any other matter considered relevant by the court.

(3) An order may be made under this section despite the fact that the employee who has suffered injury, loss or damage, or a member of the employee's family, may also have an entitlement to compensation under another act or law.

(4) An order may be made under this section on the court's own initiative.

This issue has been debated on other occasions in this chamber. I do not propose to unnecessarily restate what has been said earlier. In essence, the clause will allow the magistrate, when determining a penalty with respect to

contravention of this act, to award some or all of the fine to the injured worker, taking into account a range of factors including the circumstances of the offence; the injury, loss or damage that has been suffered; the extent to which the occurrence of the injury, loss or damage had been occasioned by the actions of the relevant employee or another person other than the convicted person; and any other matter considered relevant by the court. It is a mechanism to allow a degree of not so much compensation but rather acknowledgment that where a worker has been injured as a result of the conduct of an employer, depending on the circumstances, there ought to be an award of part of the fine to the injured worker.

I understand that the numbers are not here to support this proposition, but I believe it is important that we at least consider it. This issue will not go away in terms of adequate redress for injured workers. I urge members to consider this clause. I believe other members have put their stand on the record previously. I urge all members to consider it.

The Hon. T.G. CAMERON: As I understand the clause, penalties of up to $200 000 could be awarded against an employer under this bill. Is that correct?

The Hon. NICK XENOPHON: My understanding is that in extreme cases it can be up to $200 000.

The Hon. T.G. CAMERON: If the maximum fine is $200 000, then the magistrate could order that all of it or 99.9 per cent of it should go to the injured worker.

The Hon. NICK XENOPHON: In theory, a magistrate could award all of it or none of it. It is a bit like a shoplifting charge. I think the maximum penalty for simple larceny has been—I know the shop theft legislation has been before the Council—up to 12 months gaol. The reality is that most people get a fine or a bond or no conviction recorded. Because it is framed in terms that take into account the extent of the injury and the circumstances in which it occurred, it gives a magistrate a fair degree of discretion.

I would imagine for there to be a substantial award of a portion of the fine to the injured worker, it would be in circumstances where the injuries have been horrific, for instance, a worker receiving burns to 70 per cent of their body in circumstances where the inspectorate warned the employer that a particular process in a factory was unsafe and those warnings were ignored. It would be at the upper end. I cannot imagine circumstances where an employee would be awarded $200 000.

The Hon. T.G. CAMERON: I am a little confused now. I would have thought the magistrate or judge in awarding a fine would take into account not necessarily the extent of the injuries but, rather, the extent of the negligence on the part of the employer. For example, if an employer was negligent and did not put up a safety rail and someone lopped off the top of their finger, I would have thought the fine would be the same even if they lost their whole hand. I put the question to the minister: I would have thought the emphasis would be on the culpability or responsibility for creating the accident, not necessarily the nature of the injuries that occur.

The Hon. R.D. LAWSON: Precisely. One would ordinarily expect the court to take into account the culpability of the negligence, action, inaction, act or omission of the employer. Obviously, one factor to be taken into account in determining the seriousness of the offence is the effect upon the victims or third parties, but the primary consideration is the degree of culpability. Section 59 of the current act provides for aggregated offences as follows:

> (1) Where a person contravenes a provision. . .
> (a) knowing that the contravention was likely to endanger seriously the health or welfare of another; and
> (b) being recklessly indifferent to whether the health or safety of another was so endangered, the person is guilty of an aggravated offence and liable to a monetary penalty not exceeding double the monetary penalty [otherwise specified].

The Hon. T.G. CAMERON: My understanding is that any payment awarded to an employee under proposed new section 61A would be in addition to what they may be awarded under the workers' compensation act. Could the minister clarify that situation?

The Hon. R.D. LAWSON: That would be the effect of the amendment as proposed, because subsection (3) provides that an order for compensation can be made notwithstanding the fact that the worker may also have an entitlement to compensation under another act or law.

The Hon. T.G. CAMERON: I asked earlier whether, if the government brought an action forward for a prosecution under this offence, an employee would be able to join that application at a later date. The answer I received was an absolute 'No.' I see a bit of a conflict under section 61B. It concerns me, and I would be interested in a response from both the minister and the Hon. Nick Xenophon. Under this legislation, the government can launch a prosecution to try to get a conviction. I wonder what role the government will play when it comes to addressing the judge or the magistrate on what percentage of the damages ought to go to the government whose barrister is there arguing the case for the government and what percentage should go to the injured employee.

If the injured employee has no right to put a submission to the magistrate regarding the quantum of the fine that they should receive, I can see that they would be severely disadvantaged and we are creating a conflict for the government lawyer. The government lawyer could be arguing against the person who has employed him if at any stage he addresses a question on the quantum of damages for an individual, and that concerns me because I know what the government lawyer will do: he will take the government's side—and perhaps he should because the government is paying his bill—but there would be no-one to put submissions to the magistrate on behalf of the employee.

What guidance would the magistrate take? Would he just look at it and say, 'Well, they've been negligent, there are no submissions before me, so I will award this or I will award that.' I am a bit concerned about supporting this and having it go forward only to find that we have a conflict. I could go further and say: would the government make an application to the magistrate during the hearing or would it just remain silent and leave it up to the magistrate? Some of them might not even know that they are able to award damages under section 61A.

I recall a court case—I will not go into detail—where I seemed to know the act a lot better than the magistrate. I wanted him to move along a particular course. I had to direct his attention to the act. In the first instance, he said, 'That's not right.' I had to point out the section of the act to him. A magistrate could be in a position where he did not know. That is not a problem, but you would expect that the employee would have a lawyer there to point that out to him, to argue the case, to put proper weight on the employer's negligence, and actually put a submission to the magistrate, such as, 'Your honour, in view of this, this and this, I ask you to award 50 per cent to the employee.' I cannot imagine that a

government lawyer would do that. I think there is a conflict, and I would like a response.

The Hon. NICK XENOPHON: The Hon. Terry Cameron makes a number of good points in relation to this matter. I do not have the numbers for this amendment, but I think this discussion in committee is useful. This issue will not go away in terms of adequate levels of redress for injured workers, because they have been steadily whittled away over a number of years under the 'no fault' WorkCover scheme. I indicate to members that, because of time constraints and endeavouring to have this matter dealt with expeditiously, I do not intend to call for a division on this issue. As I envisage the section to operate if it passed, it would be this. The magistrate has a discretion to award a portion of any fine to an injured worker. The magistrate would have to take into account various matters. If there is not sufficient information before the magistrate to determine that, I presume that the magistrate would be able to ask the government's lawyer (as an officer of the court with, in a sense, that higher duty) to provide that information.

However, whatever conflict there may be—although it is not a conflict in a strict sense—I agree with the honourable member that it places the government lawyer in a difficult situation. There is still a primary obligation that, if the magistrate requires details of the nature of injuries and the like, those details must be provided. I am not suggesting that this is a perfect mechanism to deal with this issue, but this amendment makes the point that what occurs at the moment is not satisfactory in many cases where horrendous injuries are involved.

The Workers Compensation Act provides for a lump sum payment for permanent disability, but there are cases where, for instance, an injured worker has suffered horrendously for two or three years enormous levels of pain and suffering, but at the end of the day their permanent disability is 5 per cent or 10 per cent, and there could be an award of $8 000 to $10 000 depending on those injuries. That person has gone through three years of hell as a result of an employer being in gross breach of the act.

The employer might be fined $50 000 or $100 000. What is wrong with the magistrate taking that into account and saying that $10 000 or $20 000 should go to the injured worker by means of this mechanism? That is the intention of it. I know that this amendment will not pass now, but I think the Hon. Terry Cameron's comments are useful because I believe this issue will be revisited and that it ought to be revisited down the track because the current system of compensation is not adequate. This is not a backdoor method to common law, as some might say.

An honourable member interjecting:

The Hon. NICK XENOPHON: But it does have an application to remedy an injustice, particularly in cases where the current workers compensation system lets people fall through the net. Another example might be someone who suffers a horrendous nervous shock injury and has suffered a gross psychiatric disorder. Under the current act, there is no lump sum payment for that. This would allow at least a mechanism for some redress. That is all I seek to do. I do not propose to labour the point any more, but at the very least I hope this discussion will be a precursor to further discussions down the track on law reform.

The Hon. T. CROTHERS: I, too, have some problems with the Hon. Mr Xenophon's amendment. He talks about things falling through cracks. He is quite right, but the crack that he is opening up may not be the one that he perceives is there already. He may well be opening fresh cracks. For instance, if I have a claim for compo and if the minister or someone determines that they will take on the employer because they have constantly ignored inspectors' warnings about the state of their premises, what impact will that have on the compo case?

The Hon. Nick Xenophon interjecting:

The Hon. T. CROTHERS: Well, it shouldn't, but we know that the precedents are there to be set. That is the point I make. Once you state a piece of case law, you state the black and the white of it but you do not state the grey areas or the shades in between. What impact does that have? Does it mean that sooner or later someone could use an occupational health and safety claim to retard the progress of the compo claim? The honourable member is shaking his head, but I have seen it all before. This opens up all sorts of other areas which I do not think the honourable member intends. Nonetheless, it could well do so. If you say to the magistrate, 'We are putting in this claim and we want you to give so much to the worker.' What impact would that have on the worker who has already filed a workers compensation claim? It has to have some impact, certainly if you have the same magistrate handling both cases.

The Hon. Nick Xenophon interjecting:

The Hon. T. CROTHERS: It has to have some impact. Whether or not you want it to have an impact, the recipe is there, as constituted by the amendment, for it to be built on in some future court case. I understand what you are doing—

The Hon. T.G. Roberts interjecting:

The Hon. T. CROTHERS: I understand what the honourable member is doing and I am supportive of it, but I cannot support it in this form. That is the point I am making.

The Hon. R.R. ROBERTS: I have listened to the debate and I support the proposed new section. It ought to be explained that, under the act, a judge has no ability to award damages. The proposed new section provides, whether or not the injured worker or the minister are making the claim, that the judge in the case has no ability to award damages anyhow. So the point the Hon. Terry Cameron has made about whether the injured worker could join the minister in the action is really not the point.

The proposed new section, for the first time, facilitates a situation where a judge can make a judgment in all the circumstances as to whether a part, all or none of any fine that he sees fit to impose could go to the worker. What we are really talking about is this facilitation for the first time. We can argue about whether that is reintroducing the common law aspect of workers' compensation, but it is important to remember that workers' compensation and occupational health and safety legislation has moved on. The whole system has changed.

The Hon. Trevor Crothers would remember, from when he was involved with the Trades and Labor Council, that it was to be a whole-of-life scheme: if you were injured you were to be rehabilitated. Since then there have been a series of amendments that have taken away many of those benefits. So, to suggest that we might shift the emphasis is really a bit of hypocrisy, especially when the government has taken away many of the penalties.

I am not confident that we will get this up because the Hon. Mike Elliott has indicated his opposition to it. The proposed new section also has to be taken into account in the light of recent movements in contemporary law in this state where victim impact statements are a regular thing and any victim can place a victim impact statement before the judge

for his consideration. So, whether a person was enjoined with the minister as a litigant in the case would not prevent them from submitting a victim impact statement for consideration by the judge.

Having commended the merits of the amendment, I am extremely mindful of the fact that, whilst I support it, I will be on the losing side. I do agree with the Hon. Trevor Crothers and the Hon. Nick Xenophon that this is a matter that we will visit again, and I think we ought to do it with some enthusiasm.

The Hon. T.G. CAMERON: Like the previous two speakers I have a great deal of sympathy for the problem to which the Hon. Nick Xenophon refers. For the record I note that how ever Trevor Crothers and I vote it will not affect the defeat of the proposed new section. I invite the Hon. Nick Xenophon to take on board some of the comments I have made to see whether or not it can be tidied up.

Another thing that concerns me is that I can see a situation developing where, if we are not careful, it could become a feeding frenzy for the legal profession. I recall the debate about the removal of common law from the workers' compensation legislation. There was an enormous debate within the Labor Party about that. The Hon. Mr Xenophon would be amazed to know how many lawyer members of the Labor Party got up at the conference and spoke with passion and venom about common law being removed from the workers' compensation legislation. The fact that they all came from big legal offices which specialised in workers' compensation did not raise the point of whether there might be a conflict of interest, but they fought long and hard to ensure that that was retained. I am a little concerned because I do not want to see a situation created where it will become a feeding frenzy for the lawyers. However, I have a great deal of sympathy for the proposition put forward by the Hon. Nick Xenophon.

I have a further question for the minister. In clause 3 the fines range from $5 000 to $200 000. The majority of employers in this state come from the small business sector. I am not making out a case that they should have any lesser responsibility in relation to the safety of their workers than do large corporations, but I would like an idea from the minister, for example, whether a division 2 fine (which means a fine not exceeding $100 000) means that a magistrate is likely to order a fine of $90 000 or $95 000? Can we get an idea of what the level of fine could be?

Sometimes negligence occurs and it is not necessarily deliberate in small businesses with, say, between one and three employees. If GMH has an injured employee and it is hit with an $80 000 fine it makes no difference, but a small businessman hit with a large fine could find himself out of business and he could be bankrupt.

The Hon. R.K. Sneath interjecting:

The Hon. T.G. CAMERON: That was an inane interjection from the Hon. Bob Sneath. I am not talking about people who have been killed. Grow up. I am trying to deal with a serious matter on behalf of small business people. If you would let me finish, you might learn something. I refer to a small business with one or two employees being fined $80 000. If the amendments of the Hon. Nick Xenophon are passed, and if a magistrate awarded a $150 000 fine and 50 per cent went to the employee and 50 per cent went to the government—and I think most small business people would voluntarily go into liquidation—would there be any protection for the employee's share of the fine or would he miss out too, like the government, because the employer went into liquidation? That cannot happen under workers' compensation because they are protected, but I do not see that they would be protected in this case.

The Hon. R.D. LAWSON: Dealing with the last point, I think the Hon. Terry Cameron has put his finger on something that was hinted at by the Hon. Trevor Crothers in his perceptive observations. Let us assume that somebody is awarded compensation and, notwithstanding the fact that it is a $50 000 award of compensation, if that is taken into account in his workers' compensation and if the company that is ordered to pay that fine cannot pay the fine and goes into liquidation, he will, as it were, have received the benefit of a substantial award which would be entirely illusory.

The Hon. T.G. Cameron: That can happen anyway.

The Hon. R.D. LAWSON: Well, it cannot happen under the workers' compensation system because, under workers' compensation, irrespective of the financial status of the employer, the worker will be paid. That is why it is better to maintain the integrity of the workers' compensation system and not to muddy the waters with this. There are a number of reasons why the government is opposing this. I have mentioned them before. However, the Hon. Terry Cameron has raised a serious practical difficulty about how this amendment would apply when he identifies the conflict of interest. It is more than a potential conflict of interest: it is an actual conflict of interest of the prosecutor in a claim of this kind. Not that he will be thinking whether it would be better for this fine to be awarded to the government or to the worker, rather you put him in the position of having to argue against the worker.

We have to argue that, at the time when it came to divide the fine between the government, the Crown and the worker, he would surely be arguing, 'Mr Magistrate, it is unnecessary for you to award additional damages to this particular man because he is being compensated under workers' compensation. You then put the counsel for the prosecution who has previously been on the side of the worker against him in the division of the proceeds.

What is identified by the Hon. Terry Cameron as a potential conflict of interest would, in some cases, be an actual conflict. He really identifies the dichotomy that exists between on the one hand a prosecution which is seeking to enforce and uphold the law and on the other hand a claim which is seeking to compensate for somebody for a detriment they have suffered.

The honourable member mentioned that this could become a feeding frenzy for lawyers. Whether or not it will become a feeding frenzy, it will certainly be something that would benefit lawyers more than workers because, if workers were able to recover money from this source, I can see those funds being used in legal costs as much as for the benefits of the workers. It happened under the common law system: I am sure it would happen under this. That is one of the reasons why the government is so adamantly opposed to the amendment.

I think I have covered the matters raised. The honourable member mentioned victim impact statements and he also mentioned the fact that small business could be crippled by these fines. One would expect the court to take into account the size of the business when imposing the fine. A sum of $200 000 to a large enterprise might be a painful fine but one that is not crippling: $20 000 to a small business could be enough to push it over the edge. That is something the court will have to take into account when determining the level of the fines.

The Hon. T.G. ROBERTS: This is all good grist to the mill but I think earlier the Hon. Nick Xenophon indicated that he was not going to support this on the basis that there is an ability to prosecute in a far more effective way under the act with the increase in the divisional fines. There was general agreement that we were moving forward in relation to some aspects of the bill.

I think we have just had a debate over three-quarters of an hour on a measure but we had agreement that no-one had the numbers to put it through. Someone might want to read *Hansard* the next time this matter is debated. It is probably all good grist to the mill but I think we need to put forward those on which we have agreement so we can complete the debate.

New clause negatived.

Clause 7 passed.

Schedule and title passed.

Bill read a third time and passed.

EDUCATION (COUNCILS AND CHARGES) AMENDMENT BILL

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

[Sitting suspended from 5.53 to 7.45 p.m.]

SOUTH AUSTRALIAN PORTS (DISPOSAL OF MARITIME ASSETS) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 530.)

The Hon. SANDRA KANCK: When I was speaking earlier today I listed the very crazy reasons that I was given at my first briefing on this privatisation plan for privatising. They really were quite loopy reasons. It makes very little sense to divest oneself of ownership of an asset that has paid dividends and loan repayments to state coffers of $37 million in the previous two years. Once we sell that, that will be a lot of money that South Australia will forgo into the future.

I also find it interesting to observe that the government is opting for a 99 year lease rather than a direct sale. At one of the briefings I had I asked why this course of action was being chosen, given the argument that our Treasurer advanced last year that a long-term lease of our electricity utilities would produce a lower price than a straight-out sale.

Most strangely, that is not the case with the privatisation of the Ports Corporation. I was told that the price that we manage to get will be dependent on what restrictions are placed on the lease. So I asked what restrictions might or might not be considered. In the answers that I got it became clear that performance agreements would not be included because—and I remember earlier on the Hon. Paul Holloway asked whether I got answers, and I hope he is listening to this doozey of an answer—'this would be tantamount to saying that the government knows how to run the ports, which clearly it does not think it can, otherwise it wouldn't be selling them, would it.'

That is the sort of circular argument that we are seeing. We are seeing, through that, that the government's ideological drive to sell off government owned instrumentalities results in arguments that would have made the ancient Greek sophists proud. Never mind that the government has been operating our ports effectively for decades. Some of the restrictions that I was told would be incorporated into the lease include cross-ownership restrictions, and I note that this has been included in the bill.

It is an extremely important provision yet it is one that the Labor Party is opposing by virtue of its opposition to the bill. Given that it could be in the interests of the owners of the Fremantle port or the Melbourne port to close ours down, I consider the action of the Labor Party in voting against the bill to be totally irresponsible. In my negotiations with minister Armitage regarding the bill, he indicated that the state government would deepen Outer Harbor using proceeds from the privatisation. Since that time I have heard conflicting accounts from different sources, and unfortunately the bill fails to clear up the confusion. Section 12 provides:

> The proceeds of a sale/lease agreement must be applied for one or more of the following purposes. . .

It then lists four alternative uses for the proceeds, including the option of deepening the harbour. I am very concerned about that and I want some guarantees from the government that it will meet its promises. I ask the government, in the response that it gives at the end of the second reading, to enlighten us all as to precisely what the funding arrangements are for the deepening of Outer Harbor. I am unwilling to advance the legislation to the committee stage without this being made very clear. I want to know who will be responsible for deepening the harbour, who is bearing the cost and when it will happen.

Of course, in reality the taxpayers will foot the bill whether it is done by the government after the privatisation occurs or via a discount in the price paid for the Ports Corporation. This salient fact highlights a profound flaw in the thinking behind the privatisation of the port. In 50 years when the facilities need another overhaul who will bear the cost of providing this benefit to the whole of the economy? The lessees? That is unlikely. The taxpayers? Almost certainly. One has to query the benefit to the South Australian taxpayer of this. Ports Corp has a $30 million debt which the taxpayer will retain as part of the sale and now it appears that the government will pay for the deepening of the harbour. So are we really going to be ahead in this game?

It is only as a consequence of the South Australian Farmers Federation and AusBulk indicating to me that they are satisfied with the agreements reached with the government that I am prepared to allow the bill through. They told me about a fortnight ago that they consider that the concessions offered by the government are adequate. Nevertheless, the bill is silent on the government's intentions regarding the deepening of the Wallaroo and Port Giles ports, so I would also like the Attorney-General to place on the record when any such deepening will occur and how those operations will be financed.

I have concerns about the possibility of a port being closed further down the track by the lessee when it is effectively out of the government's control. Such a possibility would be dealt with in the lease conditions, and I express concern that such an important issue is to be dealt with in this way rather than through the act. Based on the *Hansard* record of the debate in the House of Assembly, I believe the government would require 'significant notice' giving the state government the first right of purchase in the event of closure. I ask the Attorney, when he sums up, to define 'significant notice' and indicate how the value of a facility to be closed will be determined.

The House of Assembly heard some misleading statements regarding the alternative option of dredging the inner harbour. When I met Minister Armitage in September he told me that the scientific analysis of the Port River sludge found it was not as contaminated as everyone had expected. Yet he told the Assembly that dredging the inner harbour 'was found to be hideously expensive and environmentally disastrous.' In the debate on the bill in the other chamber I note from *Hansard* that the member for Hart claims to have no knowledge of the report about the environmental implications of deepening the Port River. I do not know why he failed to ask the minister for a copy of PPK's Review of Dredging Options for the Port River because the minister was quite happy to provide me with a copy.

The report indicates that sediment in the Port River contains elevated concentrations of heavy metals but that it would not be impossible for it to be dredged and the sludge dried and disposed of to landfill; perhaps not impossible but not particularly desirable given the associated problems. Another issue associated with upgrading Outer Harbor will be the need to construct the long talked about third river crossing, a bridge over the Port River which this parliament approved five months ago with the passage of the Highways (Miscellaneous) Amendment Bill. It is absolutely vital to the efficient operation of the port that the new bridge is built. The Commercial Road bridge will not be able to handle the increase in grain rail traffic the expansion of Outer Harbor will bring.

In the other chamber the opposition claimed that trains of 80 to 100 carriages in length would travel through Port Adelaide and up Le Fevre Peninsula. My research shows that this is unlikely due to logistical difficulties and that more trains of a shorter length would be likely. Whatever the outcome in respect of the size of individual trains the increase in rail tonnage makes the third river crossing a priority. Travelling on track not built for these sorts of loads will slow down the passage of the trains, and the government must surely be considering efficiency in the matter of transport to Outer Harbor.

That is the economic case for the bridge being expedited, but what about the burden that will be experienced by some people living in homes alongside the track? The reasons for expediting construction of the third river crossing in association with the privatisation of the ports becomes stronger. When I last spoke to Minister Armitage I stressed this point and asked him to ensure that things are happening on this front, and I urged him to talk to the Minister for Transport about the importance of this bridge.

However, despite my urging, Minister Armitage had no guarantees regarding the crossing in the second reading explanation delivered on his behalf in this chamber. I urge the government to clarify the position of the state government on this matter. Gridlock on the rail line and consequent loss of tonnage could be a real risk if we do not get this right.

I turn now to the question of recreational anglers. What are the provisions for their access to jetties and wharves for fishing? At one stage I recall the Minister for Transport saying that the government would transfer jetties to her control, and the bill says that such access issues will be sorted out by agreement between the new owners. I ask the Attorney-General to set the record straight on this. There are thousands of recreational fishers in this state and the government should pay heed to the bumper sticker that many of them display that says 'I fish and I vote'.

I would like to know whether any jetties have been transferred to Department of Transport control as part of the lead up to the sale and, if so, which ones? Will each local council have to go in and fight it out with the new owners or will there be a standard agreement? Will the new owners be able to place restrictions, for instance, on the times of day that fishers (and others) can access the wharves, or where on the wharves they can go?

I recall I spent many of my Christmas holidays as a child at Taperoo, and one of the exciting experiences was to go down to the wharves at Port Adelaide and Outer Harbor to look at what was happening. It was certainly a more dangerous place then than it is now with container shipping. At that time there were no restrictions on where people could move about. I would be concerned if, in the future, under privatised ownership restrictions were put in place.

Sea-Land, which operates the existing freight terminal, has trebled the amount of freight going through Outer Harbor. I note in this regard in the *Advertiser* of 10 July this year an article headed 'Port streets out in front of rivals', which states:

> Port Adelaide has held its lead as the country's most productive and efficient major port. One of its efficiency ratings—covering downtime—was almost three times better than nearest rival, Brisbane. . . The Bureau of Transport Economics has reported the key container terminal at Port Adelaide had a handling rate of 23.1 containers an hour, compared with the improved national average of 20.4. The previous average for the productivity of each container crane was 19.1. The port's efficiency measures were also above the national average, resulting from a good industrial record and work practices, and fast turnaround times at the container terminal.

Like other MPs I received, early in June, a copy of correspondence addressed to the Hon. Michael Armitage from Sea-Land, which operates the container terminal. As a consequence, I made contact with Malcolm Thompson, the director of that company, and went to Port Adelaide to meet him and discuss his concerns. I found him to be extremely helpful, particularly in terms of painting a picture of how our ports fit into the national scene and what opportunities exist to advance our ports in the stevedoring industry in South Australia. I know that the minister has been using the proposed sale of the ports as a means of pressuring Sea-Land, but I certainly saw no need to apply that pressure. The quotes from that *Advertiser* article show that that view, I believe, was justified.

Ultimately, if media reports are correct—and I have received no further correspondence from Sea-Land that would contradict that—then issues that were raised in Malcolm Thompson's letter, particularly about the extension of the terminal operating agreement, have been resolved. I am pleased to hear that but I want to use this debate to raise a related issue that has the capacity to weaken South Australia's ports.

The fact is that the profitability of our ports is being undermined by the commonwealth stevedoring levy which was struck at the conclusion of the national waterfront dispute in 1998. That levy was set at $12 per container and $6 per motor vehicle exported from an Australian port. It was designed to meet the redundancy costs of the 1 486 stevedores who lost their jobs in the negotiations that followed that highly publicised dispute. South Australia was already extremely efficient and of those 1 486 jobs that went only 11 of them were South Australian. Honourable members only need to reflect on the fact that we have car manufacturing plants such as Mitsubishi and Holden here in Adelaide to consider what a penalty of $6 per vehicle amounts to.

Sea-Land is paying $12 million through this levy or, to put it another way, is providing almost seven times the amount it will receive to fund payments for the 11 employees made redundant in South Australia. This is allowing Patrick Stevedoring in Melbourne to underbid Sea-Land. As a consequence, two major shipping services have already terminated port calls at Adelaide. Rather than trying to put more pressure on Sea-Land, this state government ought to be putting pressure on the federal government's Workplace Relations Minister, Mr Peter Reith, to get this levy renegotiated.

It is in the interests of a better price for the sale of our ports that the state government stand up to the federal government on this matter. It is not inefficiency on Sea-Land's part that has led to the termination of some port calls in Adelaide. The government should be aware that this action has also resulted in an annual $2 million revenue loss for the Ports Corporation.

I seek some information from the government as to what action it is taking because of the bearing this levy will have on the final price the government will receive from the disposal of these assets. Without intervention, it is a levy that will be in place for a decade, which could mean forgone income of $20 million in that time for the new owners. All potential buyers will discount the price they are prepared to pay for our ports unless the state government takes firm action.

In May this year, I received a letter from the Farmers Federation, and I would like to put on the record a couple of points that it made. It pointed out to me that 85 per cent of the average South Australian grain crop is exported, contributing, on average, $1 billion to the South Australian economy mostly in rural areas. It says that this would be further enhanced if the ports were developed. It mentions that industry is poised ready to spend $30 million on land based infrastructure improvements, subject to government providing the state based asset improvements. It goes on to say that improvements as recommended—that is, as recommended by SAFF—would place South Australia's grain ports in a strong position for future benefit to South Australia, fostering grain production and including prospects of attracting grain from Victoria for export. The alternative is for South Australia to remain uncompetitive with grain gradually being diverted from eastern Australia for export through Victoria.

Through the negotiations that I have been involved in on this piece of legislation, we have an undertaking, I believe, for the deepening of Outer Harbor. As a consequence, South Australia might now even be able to have grain being attracted from Victorian farms to be exported through Outer Harbor, with a boost to the South Australian economy as a result. While the Democrats have been playing a somewhat important part in achieving that outcome—I do not overrate our significance because I know that SAFF and AusBulk have been bargaining very hard—we maintain that the original impetus for this pressure to sell is a harebrained idea.

The decision the government has made to privatise Ports Corp is one that it takes at its peril. It leaves many farmers in the rural communities that their work supports disenchanted and could lead to a backlash in some regional electorates. That is clearly the government's choice, and obviously it will bear any negative consequences. Reluctantly, because we know that voting against this bill will not stop the government from privatising, the Democrats will be supporting the second reading.

The Hon. CAROLINE SCHAEFER: I support this bill and, in doing so, because it seems to have been the fashion with my colleagues in another place, I declare that I am a shareholder in AusBulk—and have always declared such on my pecuniary interest return—as is every grain grower in this state since, until recently, AusBulk (or SACBH) was a cooperative and anyone who delivered grain had no choice but to be a shareholder in that group. I support this bill for a number of reasons, largely because I believe that a lot of the concerns that have been expressed by the Hon. Sandra Kanck have been dealt with in the bill. We have discussed the sale of our port facilities over a protracted period since about 1996, when we sold the grain handling facilities to the then SACBH as a government. Certainly the first briefing that I recall in this place with regard to selling Ports Corp was in 1998. So we have had a long time to consider this legislation.

I believe that there are a number of safeguards which should allay the fears of the people who have expressed doubts. Perhaps the most important of those is that we have maintained a right to access the sea surrounding the ports and to public access via local government. I know that there was considerable criticism this afternoon with regard to people being able to fish recreationally. Under this bill, it will be the prerogative of the local government of that area to decide when people have access to the ports, and of course that will vary considerably depending on how busy that port is.

The deep sea port with which I am familiar is Port Lincoln, and there is no way that it would be safe for people to fish recreationally from that port at the same time as large ships are being loaded with bulk grain. We have covered that. The package being offered to people who work in the ports seems to me to be quite generous. If people are not to be employed after the long-term lease, they will be well catered for under this bill.

My main interest in this bill is that through it grain producers in this state stand to gain, on average, between $6 and $10 per tonne by lowering the cost of freight from their farms. For a long time we have said that we will support our farmers, and this is a real move in that direction. For that reason I would put on the record the news release from the South Australian Farmers Federation of Monday 23 October, which reads:

> The SA Farmers Federation has welcomed today's announcement by government enterprises minister, Michael Armitage, that a deep sea port will be constructed at Outer Harbor. Chair of the SAFF Grains Council, Jeff Arney, said the announcement was the culmination of a long and extensive campaign by the grains industry to ensure South Australian grain growers had access to port facilities that enabled them to be competitive in the export market.
>
> 'Approximately 85 per cent of the South Australian grain crop goes overseas, contributing an average of $1 billion a year to the SA economy,'. . . 'The construction of a deep sea port in Adelaide, along with the regional parts of Wallaroo and Port Giles, is essential if SA growers are to remain competitive. The investigation into the feasibility of deep sea ports has taken seven years with other studies dating back another 20. It has been a long road, but we can finally say that we are extremely happy with the outcome.'
>
> Mr Arney said that funding for the new wharf is contingent on the successful passage through parliament of the Ports Corp disposal bill and the subsequent sale.
>
> 'SAFF is pleased with the complete political process that has led to this decision and thanks all parties for their support. The state government has committed approximately $35 million to the project with another $50 to $60 million to be sourced from industry. Every stakeholder in the grains industry has worked cooperatively to facilitate the construction of the deep sea port. We now need to ensure that the appropriate infrastructure is in place so that the government's vision for Outer Harbor to be the state's export facility hub becomes a reality. With that in mind it is imperative that the third river crossing of the Port River goes ahead so that there is

appropriate rail and road access to the new facility. There is no point in having a state of the art export facility if we cannot get to it easily and cost effectively,' said Mr Arney.

That probably sums up my support for this bill. It states that the government's commitment would be approximately $35 million and that the rest of the money would come from the industry, so I think you could call it a joint initiative. It is my belief that that is the best way we can do it. It is also my belief that the government's job is to facilitate and provide for infrastructure. By writing this into the sale contract we can guarantee some surety to the grain farmers of the state, because at the moment the only panamax facility in South Australia is at Port Lincoln. I also understand that part of this agreement is the upgrading of Port Giles and Wallaroo to panamax facilities, and again this will be a considerable efficiency and cost saving measure for our grain farmers. As we have heard ad nauseam, various inquiries have been held into where a panamax facility should be put and into dredging the Port River itself.

I have long held the belief that to dredge the Port River and take large freight ships further up and closer to populated areas would be, in the long-term, ineffective. At least by staying at Outer Harbor we take some of the noise and dust away from the people of Port Adelaide and allow the facility later to further deepen and allow for larger ships some time into the future. There is no guarantee that AusBulk will be the preferred carrier and that will be a decision of the Grains Council and the government between them. With whomever gets that contract, we will need to see that it is for the long-term economic benefit of the state. Off the top of my head I do not have details of how many hundreds of thousands or millions of tonnes of grain are delivered from South Australia each year, but it would certainly be at a gross of $1 billion, probably at least a million tonnes of grain each year. If we multiply that by the $6 to $10 per tonne of saving, that is a lot of saved money that will be generated into the economy of South Australia, particularly into regional South Australia where it is most needed. I commend the bill.

The Hon. J.S.L. DAWKINS: I rise to support the bill. My support also extends to the other bills in the package relating to the development of our ports in this state. In commencing this contribution, as my colleague before me and my colleagues in the House of Assembly did, I declare that I am a shareholder in AusBulk, formally South Australian Cooperative Bulk Handling Limited. As the Hon. Caroline Schaefer has explained, over a period of some 40 years any South Australian grain grower who delivered grain through the SACBH system became a shareholder, as it was a cooperative body. The history of that body and the development of facilities across this state is almost legendary in the development of bulk handling facilities over a short period of time across many centres of South Australia, in transition from the days of handling bagged grain, when I was a small boy. My shareholding in the former SACBH, now AusBulk, came through delivering grain as part of the family company and later in partnership with my wife.

I commend the Hon. Caroline Schaefer for her concise summary of the debate before us. The issues addressed in this legislation have been around for a long time. The legislation has plenty of safeguards. I am pleased to see the considerable work done in relation to public access. A lot of noise has been made about public access. It is important to realise that, while some people have been jumping up and down about the fact that this will restrict access to the jetties and wharves concerned, in reality there have always been restricted areas. As the Hon. Caroline Schaefer says, in many cases there is no possibility of public access when ships are in port. Obviously another important consideration that I have taken into account in supporting this bill is the lowering of freight costs, which is a very important factor. I may well touch on that again shortly, although I do not wish to delay the Council. I will comment briefly on other contributions to this bill.

I listened to a long speech by the Hon. Paul Holloway in two portions, and the only thing that I took out of all that speech was that, for all the criticism, he proffered no alternative. In the honourable member's speech, for the life of me I could not find any alternative put forward by the opposition for the development of the ports and the grain industry in South Australia. I also recognise support for the legislation by the Hon. Sandra Kanck on behalf of the Australian Democrats. I respect her request for clarification on a number of issues although, like my colleague the Hon. Caroline Schaefer, I think that her concerns are addressed in the bill.

There is no doubt about the importance of the grain industry to South Australia. It is also important to consider the fact that we are unique in South Australia. As all members would know, for what is a relatively small population, we have an enormous coastline and, in the early days of the state, we had a huge number of ports scattered up and down the coast. The number of ports has decreased but, compared with many other grain-growing regions of the world and in Australia, we still have far more ports per head of population or per head of producer than probably any other region in the world.

That is an important point that has restricted the capacity of the state and of industry to ensure that we have the best facilities. We need to have our infrastructure developed, and it is extraordinarily important that as many of our ports in South Australia as possible are able to cater for panamax ships and have the future capacity to deal with larger ships. I have no great knowledge of shipping but I have no doubt that the Hon. Terry Roberts would agree that ships will not get smaller and we have to make sure that we can cater for the largest ships that are sent to us.

With those few words I emphasise the strength of my support for this legislation. I think it is very important for South Australia. A lot of effort has been taken, not only by government but by members of industry over a long time, trying to search for the solutions for South Australia with respect to its shipping capacity, particularly for the grain industry. A range of people from the community in South Australia have contributed to what was known as the Deep Seaports Investigation Committee (DSIC). A tremendous amount of work was done on that body over many years and there were many different solutions. However, I think that the way of developing our infrastructure in this state that has been proposed in cooperation with this legislation is the only way to go, and I support the bill.

The Hon. R.K. SNEATH: I will have to borrow a plough from the Hon. John Dawkins and put my newly acquired 15 acres into barley so I can become a shareholder. I speak against the sale of Ports Corp because under this government in this state we have managed to sell too much.

The government seems to be hellbent on privatising state assets in the same way that the Thatcher government sold off assets—or the silverware, as the Hon. Trevor Crothers has

referred to it on a few occasions. There have been many examples of the government's selling off state assets—ETSA, SA Water, Transport SA, State Print and now SA Ports Corp and SATAB. The Minister for Government Enterprises is saying that the Lotteries Commission could be next. The state will never be able to afford to buy back these assets. Once they are gone, they are gone. We should have learned something from the Victorian election, particularly how people in the bush eventually threw up their arms and said, 'Enough is enough!' The loss of some country ports will cost country jobs in country towns that cannot afford the loss. We have seen that devastation since all the Department of Road Transport contracts have been given out to private enterprise.

I am not convinced that privatisation of the ports is a cost saving to farmers. It could result in more industrial disputes—like a lot of privatisation has—costing farmers money. I am not convinced that the freight costs will come down so dramatically, and perhaps tomorrow or later tonight the Hon. John Dawkins or Caroline Schaefer can tell me how they will. Nobody has explained that to me. If they eventually get privatised and that is the case, that will be good. It will be a saving for farmers if the ports are privatised and the costs come down, and I will be pleased to hear that. However, I am not convinced as to how that will happen—whether they will pick up the ports and shift them inland closer to the wheat belts, and so on. I would like to hear why or how. I am sure that, if members opposite have a good argument, they will tell me and, if it is good enough, they might convince me.

Members interjecting:

The Hon. R.K. SNEATH: No, I would not go that far. However, I must say that I would be happy for the farmers, but that will not outweigh the rest of the costs—what it will cost the state, what it will cost in jobs in country areas or what it will cost the farmers in the long run. I hope that, if the government achieves privatisation of the Ports Corp, the farmers receive some short-term savings, because I am one who would agree that they thoroughly deserve them. So, I will not be supporting the sale of the Ports Corp on those bases.

The Hon. NICK XENOPHON: I will support the second reading of the bill. I have some reservations about some of the provisions in the bill which I hope will be dealt with in committee. Recently, I received a letter from an Eyre Peninsula farmer, and I thought in fairness to the Treasurer, who has the conduct of this bill in this place, that I should paraphrase a number of his concerns and then receive a response from the Treasurer in due course. However, at the outset, I would like to say that there is a substantial difference between this legislation and the ETSA sale legislation. With respect to the ETSA sale legislation, there was a fundamental issue not so much of mandate but of a broken promise. A promise not to sell the state's largest assets was made before the last election, and that was why I could not support the government's privatisation legislation.

The disposal of the Ports Corporation is a different issue. It is an issue that ought to be examined on its merits. The government also asserts that this legislation is not necessary, that the ports can be sold without a legislative imprimatur. If that is the case, one wonders why the government is going down that path. I note that the Australian Democrats are supporting the sale process because they believe there is no choice in this matter—and that is something that I would like to explore in the committee stage.

I have received correspondence from an Eyre Peninsula farmer. He believes that it is extremely odd that, after almost 20 years of investigation, seven years stretching out the last report into providing deep sea capability for the South Australian grain industry, upon discovering that the preferred option of improving the inner harbor site at Port Adelaide was not feasible, there should be such a dramatic turnaround with no substantiation of costings or benefits. Can the Treasurer provide an explanation for this apparent policy turnaround and a substantiation of the costings and benefits?

This farmer goes on to say that for the worst port development option at Outer Harbor to suddenly change from the most uneconomic proposition to the saving grace of the grain industry and new transport hub of the state in the space of a couple of weeks is completely bewildering. Again, that is something which deserves a response. This farmer is concerned with the involvement of the South Australian Farmers Federation in the sale process. He believes that the South Australian Farmers Federation represents only a small section of the grain industry and that it has been a convenient conduit for the government to play off the local grain handler, AusBulk, against the cashed-up Australian Wheat Board and the Australian Barley Board.

This farmer is concerned that as farmers own all three organisations they cannot benefit from competition as one will lose and one will gain. South Australian grain growers totally own AusBulk, about half the barley board and only a small portion of the wheat board. The farmer also asserts that the Outer Harbor proposal, even in its more economical terms, involves a capital investment of $79.6 million and was first cast aside in 1998. Of all the 15 options considered by the Deep Sea Port Investigation Committee, it had a negative net benefit over 15 years of at least $23.2 million. I would be grateful if the Treasurer could comment on whether he considers that assertion is justified.

I also ask the Treasurer about the issue in respect of options for those farmers who need to freight their grain and who are west of the Mount Lofty Ranges, in the sense they have fewer economical transport options than those in the South-East, for instance. The farmer's complaint is that it also must be considered that no consideration has been given to upgrading any other ports in the state from where at least two-thirds of the grain will be exported, unless redirected to boost Port Adelaide's throughput. He says that this leaves the majority of growers with no benefits short or long term from the sale of the ports and facing subsidising and upgrading at Outer Harbor, and no options except those to the east of the ranges.

He has a very real concern that farmers on Eyre Peninsula and the West Coast will be substantially disadvantaged. That is another aspect of his concerns. I would be grateful if the Treasurer could comment on that. I propose to ask more questions in committee, but that is the substance of the complaints raised by this farmer. I look forward to the Treasurer's open and comprehensive response during the committee stage.

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

RACING (PROPRIETARY BUSINESS LICENSING) BILL

Adjourned debate on second reading.

(Continued from 15 November. Page 516.)

The Hon. J.S.L. DAWKINS: I support this bill. In the initial stages I want to ensure that my contribution is about what the bill does. Understandably, the debate about this bill has focused on the merits of TeleTrak, the cyber racing proposal or quarter horse racing. As I have said, that is understandable. I have a copy of the 15 November edition of the *River News*, showing a colour photograph of the work starting for Cyber Raceways outside Waikerie this week, so I understand that there is some concentration on the merits of those various organisations and the proposals that they have. Of course, over recent years, I have made many trips up the Sturt Highway to the Riverland and have travelled past the two large signs which proclaim TeleTrak as the world's first of its type. The signs have been the only evidence to date, until this work that has been shown on the front page of the *River News*.

The bill is about establishing a framework that is not currently in place in this state to enable proprietary racing to exist. It is important, I suppose, to realise that proprietary racing can go ahead now without this bill and, if the bill is defeated, it can go ahead unregistered and unregulated. Those of us who support the bill are saying that, if we are going to have proprietary racing, we do not want it unregistered and unregulated.

The key component of the government's policy position on proprietary racing included a commitment to introduce legislation which would provide for the regulation of licensees to enable them to conduct proprietary racing in South Australia. The government is quick to recognise that proprietary racing will be a substantial reform within the racing industry and I think it has engaged a lot of people in consultation. The government has worked to satisfy itself that it has a system that is going to be run by people who are fit and proper to do so.

The approach adopted by the government is not dissimilar to those wishing to pursue a licence to undertake casino gaming in this state. We, in South Australia, have enjoyed a reputation for excellence in racing. I am not a racing expert like some of my colleagues in this place on both sides of the chamber, and I recognise the fact that there are areas of the state that would like to be racing for greater purses and they would like to have better facilities, but I can say that the racing industry has a calibre of people of whom we can be proud of.

The government's relationship with the racing industry has been a close one. The fundamental reason for this has been to ensure the integrity of racing and the wagering product for the public. It has become evident to all those involved that racing has reached a level where it is no longer essential for the government to have the direct role that it has had in the past. The government has supported the racing industry in its pursuit of greater autonomy. That is evidenced by recent legislation which provided for the corporatisation of the existing statutory authorities.

The bill constitutes what could be called strategic reform designed to support the growth of the racing industry within what is a new economy and changing circumstances. As much as some people would like to go back to the days when we had tiny little racing clubs and picnic race meetings all over the place, unfortunately a large number of those have disappeared from the landscape. It is the government's belief that this bill provides the potential for substantial economic benefits for the state including the breeding industry, the trainers and jockeys, the reinsmen and other local industries that benefit from such a capital intensive industry. Given the nature of these activities, regional South Australia particularly stands to benefit.

The requirement to hold a licence for races on which there will be betting will be subject to exceptions in favour of the traditional racing clubs, that is, clubs regulated by the controlling authorities and clubs that conduct picnic race meetings. In the latter case, any exemption provided for a picnic race meeting will be subject to the pre-condition that the Gaming Supervisory Authority has approved the races for betting operations.

The Hon. Terry Roberts referred to the speculation that has gone on in a number of communities in this state, particularly in his own territory in the South-East, largely in the Wattle Range council area, certainly in the region surrounding Port Augusta and, of course, in the Riverland where many would argue that this issue cost a member of the Liberal Party his seat in the other chamber. I have often wondered about the accuracy of the numbers that have been bandied about. I think the Hon. Mr Roberts spoke about that last evening.

However, I believe that we should support this legislation. It gives the opportunity for proprietary racing to go ahead in what would be a regulated fashion, one which I think will continue to uphold the way in which racing has been conducted in this state over many years. I support the legislation.

The Hon. CAROLINE SCHAEFER: I rise to make a brief contribution to this bill. I am sure that there is no-one in this chamber on either side who is not in favour of regional development. Certainly those people who have the opportunity to establish online racing (straight line racing, as some people call it) will welcome the opportunity—and none of us would want to stand in the way. I have no objection whatsoever to quarter horse racing, harness racing or greyhound racing in a straight line as opposed to on a bend.

I am well aware that many of our breeders, trainers, jockeys, strappers, and people involved with the stables and kennels (in the case of greyhounds) are looking forward to what they see as an opportunity to further their industry and to increase the number of races and the stake money and the opportunities for the animals they breed.

However, racing of any description in South Australia has suffered, I guess, a lack of support from the general public over latter years, but I think it is beginning to increase again. The history of racing in South Australia—and, indeed, in Australia—is that it has been heavily regulated and, for that reason, we have been able to say—I suppose, as far as one is able when talking about a gambling industry—that we have a very honest system of racing and very stringent penalties for those who do not abide by those laws.

I hope that there are sufficient safeguards in this bill to ensure that the international reputation enjoyed by racing in this nation is not weakened by an ability to get around some of our more stringent rules and regulations. I understand that the harness racing industry and the greyhound racing industry already have signed agreements with proprietary racing and that there is no need, indeed, for them to be subject to legislation. So, I assume that the only reason for this legislation is to ensure that there is probity in place. I guess my message is: proceed with caution.

The Hon. R.R. ROBERTS: I oppose this proposition. I must congratulate the Hon. Mr Dawkins and the Hon. Caroline Schaefer on their valiant attempts to justify the

unjustifiable. I thought it was very innovative of the Hon. Caroline Schaefer to pick up the line of regional development: I thought it was very good. I know that her family has a long history in the racing game, and she did not get into any of that. Like loyal party members, the Hon. Mr Dawkins and the Hon. Caroline Schaefer have stuck to the line. And what is the line? It is the Karlene Maywald line; that is what this is all about.

This is an act of a dead dog government in the dying throes coming up with desperate plans to stay on for no better reason than to enhance the superannuation prospects of its front bench. That is what this is all about. This is the sure bet routine: the longer they stay here, the more they profit. This is not about the racing industry. This is about deals. I am not averse to that but why do they not just say up front, 'This is what it's on about. We've got this gun at our heads and we've got to do it.'

What is this proprietary racing all about? In his second reading explanation, when the Hon. Iain Evans introduced this bill, he said (page 302 of *Hansard*):

> Traditionally, the government's relationship with the racing industry has always been a very close one.

There is very good reason for that. It is because it is one of the biggest income earning industries in the state and the government profited very much from it. He continued:

> The fundamental reason for this has been to ensure the integrity of the racing and wagering product for the public.

There is a bit of licence there, I suppose. He then said:

> It has become evident to all those involved in the racing industry that racing has reached a level of maturity whereby it is no longer essential for government to have such a direct role.

That refers to the fact that we have just corporatised the racing industry—this is a sequential operation. But why did we corporatise the racing industry? It is obvious: it is because the industry is in a very unstable financial situation. That is why we had to corporatise it. The government wants to flog off the TAB to get some money to try to sustain what is a dying industry. So, at a time when the industry is in a weak state, what do we do? We say that now is a great time to introduce some competition, which will make it much harder for them to survive—not only in the conduct of the betting side of it but in the presentation of the three codes of this sport.

This bill fails to recognise that the industry is actually about racing animals. If you want to conduct the full program of traditional racing with, one assumes, at least every second day an alternate program, you must have enough horses to run in every race. I will give an example of what I mean when I say that the industry is not in a good state. I declare up front that I am involved in the trotting industry. I love the game and I have been around it for a long time.

In the trotting industry in the past eight to 10 weeks at Globe Derby Park, the principal harness racing track in South Australia, at least three races on each program have run with only five or six horses. They cannot get enough horses to run the proprietary racing at the principal track, so the government has to convince me and convince the trainers at Globe Derby Park that now we will put in a track at Waikerie, one down at Millicent and one at Port Augusta, and run trot meetings there as well. But there is another complication.

When I was at Globe Derby Park talking to some of my friends the other day, one guy who has been coming to Port Pirie harness racing for 25 years said to me that he went up to Port Pirie last week. It is the best track in South Australia, no question about that. They spent about $1.2 million and built a five furlong track that is unquestionably the best track in South Australia, but there is a problem.

The cost of the petrol to get the horse there and back falls out of the calculations as an ongoing process because the stake money at Port Pirie for a restricted race is now $1 250. If you do not win, you are likely to come home out of pocket. So, what we are going to suggest now is that you cannot go to Port Pirie to race but we will send them to Waikerie and Millicent with the same horses. We will go through Adelaide, through the Hills—

The Hon. Caroline Schaefer interjecting:

The Hon. R.R. ROBERTS: That is a good point: we will double the stake money. The Hon. Caroline Schaefer is the very person they need in the harness racing industry, the greyhound industry and the galloping industry. Let us deal with the gallops first. They are too smart to get involved in this: they will not have a bar of it. Perhaps that is why the Hon. Caroline Schaefer is supporting this prospect on regional development grounds, because she knows that her race horses will not be involved in it. And wisely so.

So, that is the proposition. The costs will be greater but the stake money is the thing that has never been mentioned when we have talked about proprietary racing. It is one thing to put on a race and participate in the racing industry and maintain a profit; but some of the top trainers in this state are leaving the state in droves because they cannot make a quid. They are going to Victoria. It is interesting to note that Victoria and New South Wales will not have a bar of proprietary racing.

People will leap to their feet and say that the legislation does not provide for proprietary racing as it does in South Australia. That is true, but those acts of parliament are changed in a trice; they can be fixed up immediately. What are we talking about when we talk about Victorian racing? We are talking about the most sought after racing product, the most valuable racing product not only in Australia but recognised by experts as probably the most valuable racing product in the world. And they will not have a bar of it.

I would have thought that that is an indication that this is not a good thing. When TeleTrak first came around some years ago the government—rightly so in my view—would not have a bar of it. It demanded certain basic criteria, such as, 'Have you actually got the money?' 'What's your track record?' 'What are your plans?'

That could not happen and the Hon. Graham Ingerson, as the Minister for Racing, insisted on those basic criteria. Year after year, month after month, we asked for these basic ingredients so that we could make an assessment of the proposal. The organisation was very shrewd. It did not say, 'We want to put it in Adelaide', because it would not stand up against the organised racing industries. Very shrewdly, it said, 'We need to have some community support. We will go to country areas with high unemployment. We will go in there as a white knight, promise all these extra jobs'—highly inflated propositions—'and we will have this new product. We will have a strip of grass, a TV camera, many horses (that we will own), we will race them and we will run in tandem with the industry.'

That would have been real competition but, as these flimsy plans started to fall apart, Karlene Maywald having been seduced by TeleTrak and elected to the parliament, the government was faced with the dilemma that it had to do something about it otherwise Karlene was going to pull the trigger on it. We now have a variation of the original concept. The government now says, 'No, we will not have a real

competition: we will subcontract on our licence for the right to run these races but the traditional racing people will provide the horses. All we will provide is the facility within which the track will be located. We will get into the lucrative side (somewhat like the telephone providers in terms of marketing and call systems) but we do not want to maintain the tracks or breed, feed or shoe the horses. Let someone else do that. We will be a part of the lucrative aspect.'

I believe wholeheartedly that harness racing and the greyhound industry have made a mistake. They are putting themselves in a perilous state.

The Hon. R.I. Lucas: These are your mates.

The Hon. R.R. ROBERTS: That is why I am concerned, because they are my mates. They will discover that TeleTrak will say, 'We are going to put on a meeting and, if you want to be involved in these contractual arrangements, we will give you a few crumbs off the table and you will provide X number of horses.' If the industry must provide the horses on a first-come basis to TeleTrak, it will mean fewer traditional country race meetings and country people in other areas will suffer. However, we are already suffering, because the harness racing industry, for 12 months of the year—

The Hon. R.I. Lucas: Who is 'we'?

The Hon. R.R. ROBERTS: —harness racing—cannot provide enough horses in this state to run the level of racing that we have now. Many delegations from the harness racing industry have met with ministers of both persuasions in the past and said, 'We need more races so that we can sustain trotting in South Australia.' I believe that that was wrong and that it has been proved wrong. You can have 100 $100 races and trainers, breeders and owners cannot make a quid out of the game. It is essential to have stake money. The proponents will also say, 'Yes, you can do a deal', and what they can do is laid out in the legislation. They can make a deal with traditional racing, with the permission of the commissioner, in relation to the betting, but I say this: the arrangement that is now in place between the clubs and the TAB will be far more lucrative than any deal proposed by the proponents of this scheme if, in fact, they ever come up with the money or ever provide the new facility.

My fear is that they will be racing for peanuts under contractual arrangements nowhere near as good as those which they now enjoy. At a time when the industry is in a very weakened state, it will not help racing in South Australia. The proponents will say that it will be good for the breeding industry. I can tell the House that it is a slow process. You mate the mare, then wait 11 months, and then another two years. So, you are really three years away from this great influx of horses that will race and, being two year olds, they can be raced only lightly, anyhow. We will have a lag time.

This is one of the greatest cons that has ever been put forward. The government, without the pressure of the gun at their head, would not touch it. Graham Ingerson is the only person on that side of the House who has made a sensible contribution to this debate. I took the trouble of reading his speech made in the other place and see that in the real Liberal tradition felt so strongly about it that he voted with the Labor opposition, as he properly should have done. The other thing about which I have been concerned is the con—

The Hon. L.H. Davis interjecting:

The Hon. R.R. ROBERTS: I said he was a true Liberal. He actually voted with us but he knew he would not win. He was a true Liberal in every sense of the word.

The Hon. L.H. Davis: Why hasn't Ralph Clarke been chucked out then? He has broken the rules.

The Hon. R.R. ROBERTS: No, he is still a member of the party—a loyal member.

The Hon. L.H. Davis: Obviously he is; you have not chucked him out.

The Hon. R.R. ROBERTS: But he hasn't crossed the floor, either.

The Hon. L.H. Davis interjecting:

The Hon. R.R. ROBERTS: If he were to become a rat, you would take him on board like you have done with all other rats.

The Hon. L.H. Davis: He's breaking the rules, isn't he? Why haven't you chucked him out?

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): I think the Hon. Ron Roberts ought to return to his text.

The Hon. R.R. ROBERTS: Thank you for your protection, Mr Acting President; it is like being protected from a wet lettuce leaf. I said that there will not be enough horses, and the stake money will not be able to be maintained. But, more than this is the cruel hoax that is being played on the country councils in that this will be some saviour for the people in those areas. Any increase in activity in this industry in country South Australia, where the activity is diminishing, anyhow, will be at the expense of traditional racing.

It will therefore be swings and roundabouts. I suggest to members that they reject proprietary racing. We ought to be doing everything we possibly can to sustain the racing industry that has developed in this state. It has had government protection; it provides jobs for South Australians—stable jobs, many of them unionist; and it has for a long time provided stable income for this government. I know the government has decided to stand back from the industry on a hands-on basis. That is another proposition which I resisted and on which I have been defeated.

Nonetheless, I think any government worth its salt should be doing everything it can to sustain its long-term profitable industries and keep them in the best state possible not only in the interests of racing enthusiasts in South Australia but also for the coffers of the state. If this industry gets into the parlous state that I think it will, where do you think it is going to come? It will come back to the South Australian parliament and it will want help. And once again, like Humpty Dumpty, it will be torn apart, broken up and like Humpty Dumpty, it is very unlikely that we will put it back together again.

The Hon. L.H. Davis interjecting:

The Hon. R.R. ROBERTS: The Hon. Legh Davis wants me to declare an interest. He wants to display his great knowledge of the racing industry. This is the man who thinks quarter horse racing is a hopping race. He still thinks you have to have four horses to make up a field in a one-horse race, in a quarter horse race. So, I would not take too much advice from the Hon. Legh Davis. Anyone who has sat there as long as he has and made a career out of interjection and never been successful at it, is not the sort of person I am going to take advice from tonight.

What I am interested in is the racing industry. This bill does not provide any sustenance for the racing industry. It presents an extreme danger. Most of those people on that side, if they were honest enough to stand up and say what they really think, would not support this proposition. For four years, before Karlene Maywald came into this place, they would not have a bar of it.

Let me just finish with our friend from the Wattle Range Council, the mayor, who was moved to say that if we do not

take this, Victoria will grab it with both hands. Well I am sorry, Mr Mayor, but they are much too smart for that. They might take the racing away from us; they might take a whole range of other things; but they will not touch this with a barge pole. And neither should we. I suggest that we reject the bill outright. It should not pass the second reading.

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

CONTROLLED SUBSTANCES ACT

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

That regulations made under the Controlled Substances Act 1984 concerning expiation of offences, made on 24 August 2000 and laid on the table of this Council on 4 October 2000, be disallowed.

(Continued from 8 November. Page 333.)

The Hon. CARMEL ZOLLO: My comments will be brief. I did not want to speak on this motion again because I spoke during the last session on a similar motion of my colleague, the Hon. Carolyn Pickles. The reason I am doing so is that some media and, in particular, one government minister have given the impression that the entire Labor Party supports the 10 plant cannabis regulation. Clearly, this is not so. In fact, this issue is one of conscience in the Labor Party, and I am one who believes that the government is properly responding to changed circumstances and community concerns. I suspect that the minister in the other place is doing so on purpose to give the wrong impression to people out there.

As I have said, I do not support the motion of the Hon. Michael Elliott to reduce the number to three. I gave my reasons on the last occasion I spoke, and I am pleased to see many of those reasons now being articulated by the Hon. Diana Laidlaw in her contribution—in particular, the reason concerning the adverse health affects.

I commend the government for its planned resource initiative that it is proposing to introduce in the near future. The Hon. Diana Laidlaw outlined those as well in her contribution, so there is no need for me to repeat them. I do not support this motion. I think cannabis has become a blight in the lives of too many young South Australian people.

The Hon. T.G. ROBERTS: I support the motion moved by the Hon. M.J. Elliott. The circumstances in which we find ourselves as legislators in reacting to drug use and abuse in the community is a constantly changing one. I understand the difficulty that the government has in its moving in the way that it did to try to change the existing law to bring about a regulation to control the impact of a social change that was developing with hydroponics and with the dangers that law enforcers had in the aggregation of small home grown crops of marijuana. It was being suggested in the press, and supported by evidence of home invasions and various forms of drug exchanges for marijuana interstate, that South Australia appeared to be becoming the centre of a new form of aggregated drug trade where small backyard cottage industries were turning into partly organised crime or into criminal activities.

I think that most of us who keep in contact with the use and abuse of drugs in the community would partly agree with that assessment, that is, that hydroponics were probably providing, in 10 plants, more than enough for personal use, which was the original intention of the legislation when a reform was brought about in South Australia, and expiation notices for the possession and sale of marijuana were being handed out. It was generally felt that, with the introduction of hydroponics it was not so much the quality of the marijuana being produced but the quantity that was becoming a problem.

I am told by some experts that the quality of the marijuana was not up to the quality of potted plants, or plants grown in a garden atmosphere in an organic way. Many chemicals were finding their way into the hydroponics and then finding their way into the marijuana, so that the marijuana was becoming contaminated. People were exposing themselves to dangers by smoking excessive amounts of marijuana, in addition to the problems faced by marijuana smokers who smoke marijuana over a long period. The concerning thing about marijuana is that, because it is not an accepted form of drug in our society (but alcohol is), there are no standards to measure marijuana in any way.

Because it is on the black market, governments generally have no idea how much marijuana is being used, its movements or its value in large volumes. Similarly, when alcohol was on the black market in the United States, the revenue that could have been made out of taxes on alcohol went into organised crime. In the case of marijuana, South Australia and other states face the prospect of organised crime being involved perhaps not in the growing of six, eight or 10 hydroponic plants; but, certainly in the big patches amounting to hectares that have been grown and exposed from time to time, you can always bet that is financed, run and controlled by organised crime and possibly tended by disorganised criminals.

There tends to be a bust from time to time to satisfy the requirements of communities in trying to eliminate the use of marijuana in society, but unfortunately as legislators we react to what is happening out there in the community. This disallowance is one of those reactions to a position adopted by the government in an attempt to change the policy from minor acceptance and tolerance to a no tolerance position, as expanded on by the Commissioner of Police soon after the disallowance was moved.

I think the issue of the disallowance is not what the Council, the government or parliament should be debating. We should be looking at the way in which we deal with drugs in society. That needs to be part of a thorough examination by a standing or select committee. It is quite clear that drugs are being used in the nightclub scene—the disco scene as it used to be—and the club scene through to the regular use of recreational drugs by people who are in control of what they are using but certainly not in control of the company they keep when they start buying the elicit substances.

Parliament needs to make some assessment based on the facts and take a snapshot in society as to what is actually happening out there. If you talk to young people now there is general acceptance of recreational drugs. I am not saying that I support their views, but there is an acceptance of recreational drugs for the club scene. You certainly need speed to keep up with the beat and rhythms of some of the music that is played at some clubs. I certainly would not last more than two minutes, even with a few glasses of beer in me, or be able to keep up with the rhythms of the dance.

So, young people do not find some tailor made boutique drugs offensive. Because they do not study the background of drug use and abuse they do not think of themselves as becoming addicted to them. If you link the casual and recreational use of drugs by young people to the criminal

element that forms the basis for entrapment for harder drugs, it is harder for people such as I who have a liberal view of drugs in society to defend that position. The process that is used by those people who move drugs throughout our society in entrapping young people to use harder and more addictive drugs is integrated into the social use of recreational drugs.

I certainly do not have answers for keeping those drug scenes separate and apart and keeping the education programs and processes alive so that young people are able to at least make an informed decision on what these drugs, and similarly alcohol, are doing to their bodies and over a long period what they can do to their minds. It is time governments took to the sharp end of the debate and, instead of reacting to minor problems—and I attest that this is a minor problem in relation to the whole of the drug scene—took up a position where they were able to do an assessment on what is actually happening in society with addictive and recreational drugs. They should at least have a contemporary informed view on how to deal with casual, recreational and addictive drug use in society today so we can draw up recommendations and have an educative program running that allows us to contemplate either adjusting legislation or bringing in new legislation in an informed way to deal with the problems that are starting to find their way into society.

With young people and now older people having more time on their hands through the separation of society through those who are able to have the privilege of full-time professional work, work that brings about an income that allows for people to make informed decisions educatively and allows them to make informed decisions based on choices, they have the ability to make choices because of the incomes they earn as opposed to those people who have few or no choices in terms of their chosen lifestyle. In the case of marijuana users and the regulation in this case, basically we are hitting those people who have no or few choices in terms of their lifestyle. They choose to use marijuana in what they see as a socially acceptable way where they are able to grow enough for themselves plus have a little bit left over for their mates and to sell to others.

Here we are trying to reduce the choices that people in that bracket make by lowering the number of plants. Some people's view is to have a no tolerance view, which is to take away any choice at all and to remove the choice of plants from 10 to five to three to two and, some even say, to none. Each member has a different view. I have spoken to a lot of people and many have expressed their views in this and another place. Everybody has a different view and comes from a different standpoint. Some make moral judgments built into the social use of another drug being made legal. I understand the argument about connecting marijuana with alcohol or tobacco and social recreational drugs. The question is asked, 'Who needs another drug of abuse or addictiveness that will impact on health? Why don't we maintain a ban on the introduction of any new drugs into our lifestyle and into society?' But unfortunately banning substances, as we have found over the past 100 years, does not affect the use and abuse and does not mean that the organised criminal element does not become involved and a black market appears. In a lot of cases it makes criminals out of honest people.

If we compare the use of a banned drug with going into a hotel to buy spirits, young people who choose alcohol can legally get off their face, as they would say, as regularly as they like without breaking the law, as long as they do not commit other offences; yet someone who chooses to smoke marijuana is possibly heading down the trail of being either in contact with criminals or becoming a criminal himself by breaking laws that are pointed directly at minimising marijuana use or at zero tolerance.

I make a plea to legislators and the government to put together a platform of well-informed contemporary people who have opinions across the board on the use and abuse of drugs for recreational, medicinal and addictive purposes, to inform themselves by calling witnesses from all strata of society, including those who use marijuana socially and those who grow hydroponic plants, and so find out exactly what the scene is. If criminal elements are starting to aggregate in the marijuana cottage industry in Adelaide, let us find out what the implications associated with that are and look in an educated way at reforming the use, abuse and distribution of the drug networks within South Australia. In that way we can bring about better informed regulations, if required, in this state and hopefully we can do it in conjunction with other states.

Drugs are a bit like water: they find their own level across the board and it is no good, as we have found out, having a set of laws in one state that are progressive, open and in some way trying to come to terms with a harm minimisation policy when other states have no tolerance policies. As Canberra has found out, people, particularly young people, will migrate from state to state looking for more tolerant laws to live by in relation to the recreational use of drugs, and, in the case of Canberra, the use and abuse of addictive drugs.

I hope that the government will look favourably at such a panel and perhaps establish a select committee. Select committees on all sorts of issues are called for by members in both houses for all sorts of political reasons but, in a bipartisan way for no political outcomes at all in terms of advantage, I think that we would be doing the state and perhaps the commonwealth a service in involving other states and the commonwealth in putting together such a committee to try to get some positive outcomes.

The Hon. R.K. SNEATH: It seems that, in the past four or five weeks, we have spoken mainly about gambling, dope and prostitution.

The Hon. T.G. Roberts: It is a den of iniquity in here.

The Hon. R.K. SNEATH: Yes.

The Hon. Sandra Kanck: Sex, drugs and rock and roll.

The Hon. R.K. SNEATH: Yes. I must say it is a bit different from the trade union movement, because I do not think we have ever discussed any of those things. This is a lot different from the prostitution issue. With regard to prostitution I was concerned for the health, welfare and safety of human beings and removing the criminal element. I have done a bit of quick research on the marijuana plant issue, but not as much as I did on the prostitution bill. I phoned a few friends whom I thought had used it and spoke to a few other people. If this new growing method is done properly, three plants can be mature in as little as four months, and that would give the private user nine mature plants a year. That would give them quite a few ounces of marijuana for their own use, and I understand this measure intends it to be for their own use. I understand that marijuana also freezes very well, a bit like a pork chop. Indeed, you can make cakes out of it and freeze the cakes. You can store it. You could go on holidays and it would still be in the freezer when you came home.

The Hon. L.H. Davis: If you had too much of it, you'd probably carry on like a pork chop.

The Hon. R.K. SNEATH: Probably so. You didn't have any this morning, did you?

Members interjecting:

The Hon. R.K. SNEATH: I had a shearer's breakfast, and I can assure you that it includes no dope. There is no benefit whatsoever to the health and wellbeing of young people, middle aged people and old people—or anybody, for that matter—in allowing them to have 10 or five plants.

The Hon. Caroline Schaefer interjecting:

The Hon. R.K. SNEATH: Yes, you're right, Hon. Caroline Schaefer; it would certainly put some money in their pockets. If you were allowed 10 plants, that would mean at least 30 a year in a block. If you were using 30 plants a year, you would have to make your pipe out of a four gallon bucket and four inch piece of poly pipe.

An honourable member interjecting:

The Hon. R.K. SNEATH: Yes, and you would want to be sucking on it all day to use it all up. I do not agree with the Hon. Terry Roberts' position on young people. Some might say that it would be nice to grow 10 plants, but they must be looking at the profit and not the smoking or relaxation side of it. They must be looking at it with a view to creating a small business enterprise. We should be setting an example for those young people and saying, 'No, that's not the case; that's not what you get. In my book, you are very lucky to get three.' However, this is not about wiping it out altogether but about going back to three plants. The users I have spoken to in the past day said that they can cope quite well on nine plants a year, and I understand that some of them take the risk and double that, anyway.

The Hon. A.J. Redford interjecting:

The Hon. R.K. SNEATH: I thought you said the Crows. When they play Port, they could probably do with some. As I have said, people can smoke it, they can eat it; they can do anything. If we take the Hon. Terry Roberts' view, someone will be standing here in 20 years and saying, 'Our young people now have decided that they want to socialise with heavy drugs.'

The Hon. T.G. Roberts: No, they will be standing here and saying it.

The Hon. R.K. SNEATH: Yes, on behalf of the young people of their day. It is about time we put a strong position on this matter and said, 'Enough is enough.' It would be nice to come back here one day and say, 'Let us create more interesting things for our young people; let us put back competitive sports into schools; let us give them optional religious studies in schools such as we had 20 years ago.' Let us give them optional good stuff so that they have a choice of other things, instead of dope.

Members interjecting:

The Hon. R.K. SNEATH: There was always competitive sport when I went to school and I did not need to put any dope into my system. I could always take out my frustrations on the fellow I was standing. I think the Hon. Mike Elliott has not thought of the benefit to his fellow human beings in putting this up, and I must say I have no choice but to look after our fellow human beings and support the government's position.

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

ADJOURNMENT

At 9.37 p.m. the Council adjourned until Friday 17 November at 10 a.m.