LEGISLATIVE COUNCIL

Wednesday 29 November 2000

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

ASSOCIATIONS INCORPORATION (OPPRESSIVE OR UNREASONABLE ACTS) AMENDMENT BILL

His Excellency the Governor, by message, intimated his assent to the bill.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Education Report, 1999-2000

Education Adelaide Corporation Charter, 2000-01.

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I lay upon the table the report of the committee concerning an inquiry into a proposal to create a public interest advocate in relation to listening devices, and move:

That the report be printed.

Motion carried.

The Hon. A.J. REDFORD: I lay upon the table the seventh report of the committee and move:

That the report be read.

Motion carried.

The PRESIDENT: Order! I remind the cameramen that they may focus only on members on their feet and no-one else.

The Hon. A.J. REDFORD: I lay on the table the eighth report of the committee for 2000-01.

QUESTION TIME

ELECTRICITY, PRIVATISATION

The Hon. CAROLYN PICKLES (Leader of the Opposition): Will the Treasurer accept and act upon the Auditor-General's Recommendation 32 that compensation be sought from the lead advisers for the sale of the electricity assets, Morgan Stanley and Pacific Road, because of the unavailability of key personnel through a conflict of interest?

The Hon. R.I. LUCAS (Treasurer): I am happy to say that we have already considered that and rejected it, so we will not be further considering it or taking action in that area. This issue was discussed 12 months ago by way of question and discussion in this chamber. The government's position at the time was very clear. We had the capacity to negotiate with the lead advisers to ensure that quality people were available to us throughout the whole process to ensure we got a first-class result for the taxpayers of South Australia. We therefore had to agree to any personnel changes during that process and contracts allowed for those negotiations and discussions.

When one particular lead adviser, through a decision that I took, would no longer participate in the process, to ensure that the perception of any issues did not cloud the actuality, we made sure that we were satisfied that the full impact of the contract could be implemented by the lead advisers, that we the government were happy with that, and we were. In simple terms, the people who replaced the particular individual were people with expertise in the industry and who, in the end, were part of an outstanding team that has delivered an outstanding result for the people of South Australia.

Members interjecting:

The Hon. R.I. LUCAS: The state of South Australia has received $5.3 billion in total proceeds, when the Hon. Mr Holloway and some of his colleagues were briefing the media that there might be only $3 billion or $4 billion achieved by the privatisation of the electricity businesses. It was far in excess of that. The Auditor-General himself has given an opinion in his most recent report that the valuations that were achieved were at the upper end of the valuation range that had been put.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It is not a question of squandering: it is a question of maximising the value of the privatisation process for the taxpayers. I assume that in question time we will have some interest in the report and I am very happy to respond in detail, but I want to place on the public record that I believe that the small group of hard working public servants who have operated within the Electricity Reform and Sales Unit for seven days a week for 17 and 18 and sometimes up to 20 hours a day, working hard on behalf of the taxpayers in achieving an outstanding result for the people of South Australia, have been unfairly maligned not only in this report but in the series of reports, committee inquiries and statements that have been made by opposition members of parliament and community commentators.

On behalf of the people of South Australia, I publicly acknowledge the outstanding work that the senior public servants within the Electricity Reform and Sales Unit have undertaken on behalf of the people of South Australia during that time.

The Hon. P. Holloway interjecting:

The PRESIDENT: Order, the Hon. Paul Holloway!

The Hon. R.I. LUCAS: The outstanding nature of the work that these public servants have undertaken has been acknowledged by a number of other government departments and agencies and private sector companies, because already these people have been head hunted. Sadly, we are losing one to a very senior position interstate. In the early part of the process we lost one of them to a senior national regulatory authority, and others have been head hunted because the capacity and quality of their work has been acknowledged by all who have dealt with them.

Sadly, the outstanding nature of their work has not been acknowledged through the process that we have seen—through parliamentary committees, parliamentary process and, frankly, through reports such as the Auditor-General's Report, in at least saying that these people deserve the commendation of all involved in the parliament and the community for the work that they have undertaken on behalf of the taxpayers of South Australia.

If no-one else will, I as their minister will again place on record my thanks to them for their contribution. Their contribution will be acknowledged with the passage of time. When the whingeing, whining oppositions now and in future

continue to whinge and whine about the quality of their work, I will continue to defend them against the unwarranted attacks and the unfair criticisms that the opposition—

Members interjecting:

The PRESIDENT: Order, the Leader of the Opposition! Order, the Hon. Paul Holloway!

The Hon. R.I. LUCAS: —in the community and in the media might seek to heap on them. At least there will be someone in this chamber who will defend hard working public servants—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: If the opposition wants to attack public servants who cannot come in here to defend themselves—

The Hon. P. HOLLOWAY: I rise on a point of order, Mr President. As is his wont, the Treasurer is deliberately misrepresenting the question. Why will he not answer the question in relation to this highly paid—

The PRESIDENT: Order! The honourable member will resume his seat. There is no point of order.

The Hon. R.I. LUCAS: The question asked by the opposition hinges on and is directed absolutely at the quality of the oversight of the senior public servants who manage the process of the advisers. So, I will not stand up in this chamber and allow opposition members, in this parliament, to attack their credibility and integrity—

The Hon. P. Holloway interjecting:

The PRESIDENT: Order! The Hon. Paul Holloway will come to order.

The Hon. R.I. LUCAS: —when they do not have a chance to defend themselves. I challenge some of these opposition members to go out into the public arena and name these senior officers, these public servants, and make the same unwarranted attacks on their credibility and integrity. I know the cowards that exist within the opposition. They will not go outside this chamber and attack the credibility of these senior officers of the public service who have worked long and hard and have achieved an outstanding result for the people of South Australia. They deserve our support and our credit, not the whingeing and whining that they continue to get from the opposition.

The Hon. P. HOLLOWAY: I ask a supplementary question. Was the decision not to seek compensation based on independent legal advice obtained by the government on this matter?

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Was the decision not to seek compensation from the legal advisers—the private advisers, not the public servants—based on independent legal advice; and, if not, why not?

The Hon. R.I. LUCAS: Whenever I take a decision I take considerable advice (legal, commercial and public service advice) and, ultimately—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Thank you, Mr Cameron. I thank you for that commendation. I am the first to acknowledge that I am not infallible and that I need to take considerable advice before I make any decision on these issues. I took considerable advice. Regarding this particular issue, on many matters canvassed in this report that we will have a chance to talk about today and in future days, on the one side, we had legal advisers from the Australian government public service advising the Auditor-General with one view; on the other side, we had senior commercial counsel from Crown Law (the state public sector) disagreeing. We had four separate independent nationally renowned firms (two South Australian and two interstate) disagreeing with the public sector legal advice to the Auditor-General, and we also had the Electricity Reform and Sales Unit people disagreeing with the legal advice of the Auditor-General, and I also disagreed.

So, we had a situation where we took considerable advice on a range of issues. We occasionally disagreed with the Auditor-General. As I have said, on many issues we agree with the Auditor-General. We have great respect and regard for the office of the Auditor-General and for the capacity on most occasions for the government—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: On occasions we acknowledge the validity of the Auditor-General's criticisms as well. So, it is not correct to say that it is only when he is critical.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The simple reality is that there were occasions where we took a different view from the Auditor-General. His legal advisers said one thing, senior commercial counsel (Crown Law) disagreed, four separate legal firms disagreed, the Electricity Reform and Sales Unit disagreed, and I disagreed with his legal advice. So, the answer in relation to this issue is that I took considerable advice on not only this issue but all issues. I took considerable advice on all issues before I took—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I would have thought that, if I said all issues, even the Hon. Mr Holloway would be able to interpret 'all' as including a particular issue. On all issues I took considerable advice before ultimately making a decision. I am happy to have made these statements publicly and to say them again in this chamber, unlike members of the opposition. Nobody is infallible. I am the first to acknowledge that Premiers and Treasurers are not infallible; even the Hon. Ron Roberts is not infallible—so he says. The Auditor-General is not infallible; there are occasions when he will not get it right. If the Deputy Leader of the Opposition is suggesting that the Auditor-General is infallible and right on every issue, let him stand up and say that the Auditor-General is infallible.

I doubt whether even the Deputy Leader of the Opposition in this chamber is prepared to make that statement. So, if we acknowledge the fact that it is possible for everybody to not get it right then at least we have made some progress. We are saying that, while we agree with the Auditor-General on many issues, for all the reasons I have just explained we took and continue to take a different view on some issues.

The Hon. NICK XENOPHON: As a supplementary question: will the Treasurer release details of the legal advice sought, including the outline of instructions on the issue with respect to seeking compensation from the advisers?

The Hon. R.I. LUCAS: The Leader of the No Pokies group in this chamber knows full well that the—

The Hon. T.G. Cameron: Give the advice to five lawyers and you will get five answers.

The Hon. R.I. LUCAS: Well, we had five against the one on the other side. We do not intend to release the details of legal advice in relation to these issues. In the end, it came to a judgment about whether we were satisfied that the quality of the work done by the one person who was replaced was being adequately maintained by the people who came in to do the job. The simple answer to the question was yes.

The proof of the pudding was that we delivered an outstanding result in the current climate of $5.3 billion in total proceeds and the removal of most of the risk to the private sector. I reminded some members of the media at lunchtime (only one of them was here in their current position 12 months ago) that the Auditor-General went to the Economic and Finance Committee 12 months ago and raised a series of concerns and used terms such as State Bank type liabilities and so on that were potentially threatening. I suggest that members go back to some of the concerns that were raised then and work out how many have come to fruition.

We disagreed at the time and were criticised by the opposition. As I said then and I say now, we agree with the Auditor-General on most occasions but on some issues we have to disagree with him, because all our legal and commercial advice was that his legal team did not have it right in relation to some of those issues. We stood by our decisions on the key issues. Those people have delivered an outstanding result in terms of total proceeds and minimisation of risk, because we took the decision that we could not agree with the Auditor-General's legal advisers in some of those key issues. We were criticised by the opposition internally in committees and publicly in relation to those issues, but we said publicly that we could not agree with all the issues and criticisms of the Auditor-General, and at the time the opposition criticised us for that.

What I ask people to do is to go back and look at those criticisms. I ask them now: who has taken the government to court? Nobody. Who has successfully sued for damages? Nobody. What has been the outstanding result in terms of proceeds? It has been $5.3 billion. Has most of the risk gone across to the private sector? Yes.

In all those areas the success of the government's privatisation program of electricity businesses has been demonstrated for any impartial observer of this process. As I said, no matter how many supplementary questions we get asked on this first question, I will continue to defend the quality of the work that these hard-working public servants within the reform and sales unit undertook on behalf of the people of South Australia.

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question about the Auditor-General's Report.

Leave granted.

The Hon. P. HOLLOWAY: The Auditor-General reports that, while the successful lead advisers, the accounting advisers and the economic advisers to the ETSA sale all initially agreed to the standard indemnity provision in favour of the state, this requirement was dropped during contract negotiations. The Auditor-General says that there is no documented risk assessment of this decision and no evidence that this change was assessed against other bids. He also says:

> To allow a proponent to change its position without re-evaluating the impact of the change is, in my opinion, at the least unfair as regards other proponents and probably improper.

Does the Treasurer agree with the Auditor-General that the government should not have deleted the requirement for ETSA consultants to indemnify the Crown against any loss or damage arising from their actions, and why is there no documented risk assessment of this decision?

The Hon. R.I. LUCAS (Treasurer): This is another one of those rare examples where the government and the Auditor-General have a different view in relation to this issue. I obviously had much discussion with senior Crown Law officers concerning the advice that the government took in relation to this issue and others and those who were actively involved in the negotiation of the contract. Those officers, if they were able to speak for themselves publicly, would take strong exception to the inference in the report recommendations and the question that has been asked. It is for me to now speak up on their behalf.

I know that not only senior officers of the former sales unit but ultimately senior Crown Law advice was engaged in the contract negotiations and the drafting of those provisions, and their very strong view was that the government had taken a decision as to who the best advisers would be. I guess one of the issues that we disagree with here is that the government does believe that the accounting advisers, the legal advisers and the merchant bankers that the government appointed were outstanding exponents in their area and have delivered a good result for the people of South Australia.

In relation to then having selected who your lead advisers are going to be, the lawyers on both sides got down to the hard yards or metres of negotiating the detail of the contract. Anyone involved in public sector administration will know the scenario, once the key decision has been taken, as long as the negotiating points are not fundamental to your choice of a particular proponent—and in this case I can say unequivocally that this issue was not the fundamental issue in terms of deciding who were the appropriate advisers to the government. What we wanted were quality people with expertise in this particular area who knew the key players around the world, who would be able to engage in the hard bargaining that would have to be done with the bidding parties and who would do so with the knowledge of how the people on the other side of the table operated in similar circumstances.

The reality was that in South Australia we had a situation where we had never before engaged in a project of this scale—and probably never will again—and we therefore needed considerable assistance over and above the quality people that we had within our public sector administration in South Australia. The Crown Law officers who were involved in this negotiation, as I said, sat down with the legal advisers for the lead advisers contract and negotiated in the end what Crown Law advice to us was an acceptable balancing of these contractual provisions which protected not only the government but more particularly the people of South Australia, and in the end which also enabled the government to get what the government had judged to be the people with the greatest expertise, the most value added that could be brought to what was going to be a major project for the people of South Australia.

The Hon. P. HOLLOWAY: I have a supplementary question. Have the consultants to the TAB and Ports Corp sale process also been required to indemnify the Crown against any loss or damage arising from their actions?

The Hon. R.I. LUCAS: I will have to refer the honourable member's question to the appropriate minister, the Minister for Government Enterprises, and I am happy to do so on behalf of the honourable member.

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Treasure a question about probity checks.

Leave granted.

The Hon. T.G. ROBERTS: In his report, the Auditor-General states that the only probity checks on short-listed firms, or their personnel, during the evaluation of proposals

was by telephone calls to referees. The Auditor also said that after the contract with lead adviser, Morgan Stanley, was signed on 15 April 1998 the company confirmed that its US parent company had been fined over charges made 16 months earlier in relation to manipulating the US share market and that such information is critical in assessing the ability of the consultant to undertake the project. My question is: what probity checks were made of consultants on the short list for the sale of ETSA?

The Hon. R.I. LUCAS (Treasurer): This is an interesting question and there is likely to be some further exploration of these issues over the coming weeks—not only in this chamber but elsewhere—in relation to a number of people employed as part of this process, not all of whom were employed by the government. Time will have that out and we can explore that—

The Hon. T.G. Roberts: After parliament gets up?

The Hon. R.I. LUCAS: No; perhaps when parliament resumes—there is plenty of time. There will be plenty of opportunity to explore this issue from a number of different perspectives. This issue was raised yesterday by the opposition and also by sections of the media. In essence, what we are being asked to believe is that, in some way, by inference, the actions of someone on the other side of the world, as part of a global company, in some way should impact on the decision we took here in South Australia to employ consultants for our project.

If the particular individuals we employed on our project in a full-time capacity here in South Australia had been the subject of such a complaint, criticism or charge in another part of the world previously then, clearly, that is an issue that should have been taken into account. That was not the case. We are talking about a global firm which works all over the world. The people who worked on our project in this part of the world were different people to those who were the subject of the investigation in America, or wherever it happened to be. I am advised that the checking carried out was the usual checking carried out in relation to making decisions about the appointment of consultants.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: They were quality people and we got a quality product in the end. I am not sure what the criticism is of actually making telephone calls to referees. I must admit that I have been a referee for about 20 years of my 30 years—

Members interjecting:

The Hon. R.I. LUCAS: The criticism which is in the report is that the only checking done—it is claimed—was by telephone calls to referees. I am not sure what else one is meant to do. As I have said, I have been a referee for 20 years of the 30 years of my public life and all the checking of referees, whether I have been on side or the other, has been done by way of telephone calls. I have never met face to face with either a potential new employer or a consultant on a particular issue like this. All this was done, in the past, on the basis of telephone calls. I am not really sure of the import of this telephone call issue.

In relation to checking, there was considerable expertise available amongst the advisory team; ultimately there was also expertise available to the ministerial cabinet committee which was part of this total process. And I know that at the time information was made available to either the members of the ministerial committee, or the cabinet committee, or senior officers which, through a variety of mechanisms, was checked. The telephone might have been used in a number of instances but I do not see using a telephone as being a problem. It was not just for the referees: there were checks done with people who were not listed as referees.

I would have thought, although I must admit it does not always occur, that thoroughness of process involves checking with not just referees but somebody else who may know something about the quality of the work. The Auditor-General might not be aware of it. One of the issues we pointed out to the Auditor-General—and we concede that he is in a weaker position in terms of making an assessment on this total process—is that he has not been part of the process through the whole period. All he can do is a desktop audit of the documents that are there and there are a number of areas in this report that I will refer to where the desktop audit does not provide the Auditor-General with all of the information as to what went on.

There were literally thousands of hours of meetings which clearly could not all be documented in terms of the discussions. There were thousands of hours of meetings which the Auditor-General did not participate in, was not privy to and, therefore, was not in a position to make some of the judgments that he made. I will give one example which, I must admit, even though I am pretty thick skinned, I did take some marginal personal offence to. I refer to page 5 of the Auditor-General's Report. The Auditor-General is making a point that he believed the lead advisers were sort of all pervasive in relation to this process and he says:

> The pervasive nature of the advice required of lead advisers within the disposal process cannot be said to have been counter-balanced by the influence of other advisers.

What I say to the Auditor-General is that he is not in a position to make that judgment. He did not attend—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: They played the role they were there for: they were not the legal advisers.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: They were not the legal advisers.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, that is not what he is saying. He is not saying they are not influential. He is saying that it 'cannot be said to have been counter-balanced by the influence of other advisers'. He is saying that the lead advisers' advice was not counter-balanced by the legal advisers, the economic advisers or the accounting advisers within the group. And that is just not true. The Auditor-General is not in a position to make that judgment. He did not attend all the meetings. I did. I was the one who chaired every one of those meetings—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: At the State Administration Centre: I did not chair all the meetings of the advisers. I chaired all the meetings where the final decisions were taken and I know that on many occasions the lawyers disagreed with the merchant bankers; the accountants disagreed with the merchant bankers; in some cases the merchant bankers' advice prevailed; in some cases there was a compromise position which was agreed—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, in the end it got us $5.3 billion in total proceeds, all the risk removed and our debt paid back to $3 billion. That is what we got paid off.

Members interjecting:

The Hon. R.I. LUCAS: Your mess: we cleaned up.

Members interjecting:

The Hon. R.I. LUCAS: Your mess: we cleaned it up. Simple. In a note to the report, the Auditor-General says:

> Notwithstanding the fact that the ERSU claimed that the lead advisers did not exercise a pervasive influence and the actual decision-making was made by the Treasurer, on the basis of all the evidence available to me I am not persuaded that this is the case.

As I said, I take some personal offence at that, because all the decisions had to be approved finally by me. I chaired meetings at least once a week and, during the critical parts, three to four times a week, in terms of these issues. I listened to the advice, not only from the lead advisers but from all the others, and ultimately the final decision was taken by me as Treasurer. There is no basis on the available evidence for the Auditor-General to be able to make that judgment that in the end the decisions were not being taken by me as the responsible minister.

I must admit that the Auditor-General then goes on to say in note 7 page 5:

> It is to be noted that the public briefing associated with the disposal process, although it involves certain other specialist speakers, e.g. the legal advisers, the lead advisers featured more prominently than these other specialist advisers.

It is on that basis that the Auditor-General's legal advisers have come to the conclusion that the lead advisers were all pervasive. When we did a public presentation to the media and to others, the lead advisers took the lead and spoke the most and answered the most questions.

On that basis, I am told that this is evidence that the lead advisers were all pervasive and they were not counterbalanced by legal advisers and accounting advisers because, when we did a public presentation, it was the lead advisers who took the lead. That is the basis for the statement that the lead advisers were not counterbalanced by the other advisers. That statement is wrong. I am in a position to know whose advice prevailed on certain occasions. The Auditor-General is not because he did not attend those meetings.

I can say without any fear of being contradicted that there were occasions when there was a balancing of the advice of all those who were involved. There were occasions when the lead advisers' advice prevailed, and there were occasions when the legal or accounting advisers' advice prevailed.

ELECTORAL INTEGRITY

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about electoral integrity.

Leave granted.

The Hon. A.J. REDFORD: For several days there have been very concerning claims that two of the ALP organisers at the centre of Queensland's Sheperdson inquiry, Mr Warwick Powell and Mr Lee Bermingham, have at times been deployed in South Australia by the SA branch of the ALP. Members might know that already one ALP figure, Karen Ehrmann, has been jailed for three years for rorting the Queensland electoral system.

It is alleged that, during the 1997 state election, Mr Birmingham worked in the South Australian branch of the ALP for two weeks. It is said that Mr Birmingham worked with the State Secretary of the ALP here and that he was principally involved in undertaking campaign audits in various Adelaide seats, whatever that might mean. It has been alleged that Mr Birmingham was sent to Adelaide by the then State Secretary of the Queensland ALP, Mr Mike Kaiser, who himself has recently been named in the inquiry. Further, it has also been alleged that self-confessed electoral rorter, Mr Warwick Powell, has been in Adelaide this year assisting a state ALP candidate in one of this state's most marginal seats.

In view of that, my questions to the Attorney-General are: first, is the Attorney-General aware of the information circulating in Queensland and Canberra that two people at the centre of the Sheperdson inquiry into alleged ALP electoral rorting have undertaken assignments on behalf of the party in South Australia? Under the circumstances—

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: It has absolutely nothing on the fiddling of electoral rolls. We have a long way to go before we get remotely close to what—

The PRESIDENT: Order! I ask the Hon. Mr Redford to get on with his question.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order, the Hon. Mr Cameron!

The Hon. A.J. REDFORD: Under the circumstances, can the Attorney-General assure the Council that all necessary action is being undertaken by the State Electoral Commission to ensure the integrity of the roll in South Australia? Finally, is the Attorney-General aware of the term 'campaign audit' and does that suggest that our electoral rolls may have been subject to rorting?

The Hon. P. Holloway: What a sleaze bag.

The PRESIDENT: Order! I call the Attorney-General.

Members interjecting:

The PRESIDENT: Order, the Leader of the Opposition!

The Hon. T.G. Cameron: We can't hear the Attorney-General, Mr President.

The PRESIDENT: Order! I am trying to organise that.

The Hon. K.T. GRIFFIN (Attorney-General): We all know that the state ALP has had some difficulties for some time with leadership, organisation and factions and maybe those two people from Queensland were here to try to help the ALP sort out its internal problems. It may have been more sinister than that. It may have been, in fact—

The Hon. Carolyn Pickles: You say that outside. You have no proof, not a shred of it.

The Hon. K.T. GRIFFIN: It may have been to help Mr Ralph Clarke or those who are opposed to him. I do not know what the answer to that is.

The Hon. T.G. Cameron: Not even close.

The Hon. R.I. Lucas: Can you give us some hints?

The Hon. K.T. GRIFFIN: I would be quite interested in getting some inside information about what might be happening in the Australian Labor Party and its state branch.

Members interjecting:

The PRESIDENT: Order, the Hon. Mr Roberts!

The Hon. K.T. GRIFFIN: The allegations made in Queensland are quite serious and—

The Hon. A.J. Redford: I want an electoral system that everybody trusts.

The PRESIDENT: Order!

The Hon. R.R. Roberts: You'd better get out of the Liberal Party then!

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: The allegations made in Queensland are quite serious issues and the allegations about the possible extension of what has been happening in Queensland to other states around Australia is equally concerning. I have been made aware of the allegations in relation to Mr Birmingham and Mr Powell, and I suppose that there are some really quite interesting questions about what they were doing in South Australia, either at the 1997 state

election or more particularly earlier this year. Because the allegations—

The Hon. Carolyn Pickles: Would you say that outside the chamber? You do not have one shred of proof about this.

The Hon. K.T. GRIFFIN: You can check what I have had to say in the *Hansard*. I am responding to questions about the involvement in South Australia of Queenslanders who are the subject of inquiry in Queensland. Simple.

Members interjecting:

The Hon. K.T. GRIFFIN: I am concerned—

Members interjecting:

The PRESIDENT: Order, the Hon. Mr Holloway!

Members interjecting:

The PRESIDENT: Order, the Hon. Ron Roberts!

The Hon. K.T. GRIFFIN: I am concerned to ensure that nothing like that happens in South Australia. That is the important thing from the perspective of the South Australian government, the South Australian parliament and the South Australian community. We have to be assured that the roll of South Australian electors is one that has integrity. If there are suggestions that there has been manipulation of the roll, I would be most concerned about it. Those issues ought to be examined by the state Electoral Commissioner, in particular. Everybody knows that the state Electoral Commission is independent of government and will follow its own course in relation to these issues.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: I am always grateful for advice as to who else should get the material. Any assistance would be gratefully received and I would be prepared to give acknowledgment as to the source of that information. I will refer the issues to the state Electoral Commissioner and I will ensure that a reply is brought back in due course.

The Hon. CARMEL ZOLLO: I have a supplementary question.

Members interjecting:

The PRESIDENT: Order, the Hon. Ron Roberts!

The Hon. CARMEL ZOLLO: Will the Attorney respond to the involvement of Victorians in South Australian Liberal Party branch stacking?

The Hon. K.T. GRIFFIN: There is no evidence of the suggestion made by the honourable member, so no action is required.

Members interjecting:

The PRESIDENT: Order, the Hon. Ron Roberts!

EMERGENCY SERVICES ADMINISTRATIVE UNIT

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Emergency Services, a question about the Auditor-General's Report on the Emergency Services Administrative Unit.

Leave granted.

The Hon. IAN GILFILLAN: The Emergency Services Administrative Unit was established in July 1999 to provide various services in support of the Country Fire Service board's primary functions, including strategic risk management, financial management and accounting services. However, the report of the Auditor-General for the year ended 30 June 2000 shows that this has been a colossal mistake.

The Auditor-General's criticism of the Emergency Services Administrative Unit is the strongest I have seen of any administrative unit in the 20 years I have been involved in politics. The report states:

> Audit's review of relevant documentation revealed gaps in the definition and scope of ESAU's key functions and objectives.

Members interjecting:

The PRESIDENT: Order! The honourable member is on his feet. Order, the Hon. Mr Redford!

The Hon. IAN GILFILLAN: It continues:

> These gaps contributed to a level of uncertainty surrounding not only what were ESAU's key functions, but also how its role would be accepted by other agencies, notably the SAMFS and the CFS.

The Hon. P. Holloway interjecting:

The PRESIDENT: Order! The Hon. Paul Holloway will come to order.

The Hon. IAN GILFILLAN: Mr MacPherson goes on to say that a 1998 cabinet submission relating to the establishment of ESAU could not be relied upon to support the unit's 'perceived role' and that reference to other relevant documentation proved less than insightful. The vast fog surrounding ESAU extends to the critical area of funding and budgetary control.

The Auditor-General's Report has highlighted a number of issues here, not the least of which is a $21 million loan made to ESAU by the South Australian Metropolitan Fire Service. ESAU repaid the loan to the SAMFS together with interest of $1.6 million. However, Mr Macpherson says:

> . . . the initial application of funds made by the SAMFS is considered to be unlawful in terms of section 9 of the South Australian Metropolitan Fire Service Act.

He continues:

> . . . while the transaction was characterised as a loan, there is no formal documentation giving effect to a loan agreement.

Part of ESAU's funds are accrued by means of service charges levied in respect of the SAMFS, the CFS and the SES. The SES then receives funds directly from the Community Emergency Services Fund in order to meet the cost of the services recharged by ESAU. The Auditor-General found that ESAU's basis for calculating recharges to the SAMFS, CFS and SES was arbitrary and did not reflect an agreed methodology and, therefore, made it very difficult to assess the reasonableness of these charges.

Mr MacPherson continued in his report to criticise the 'ambiguity' (his word) in respect of the status of the SES and the proclamation establishing ESAU; to find faults with the General Ledger and its absence of integration with other major feeder business systems; and to describe the failure of ESAU in its accounting for non-current assets. ESAU is also severely criticised in a completely separate and vitally concerned area.

A recent statewide survey of the CFS groups has found clear dissatisfaction with ESAU and strong concerns among volunteers that its establishment is to the detriment of the service. This survey was in response to a serious decline in morale and concerns with many issues burdening group officers of the CFS. Among the points that came through on that survey were:

- That there is too much bureaucracy with departments handballing issues
- That future funding to groups under the Emergency Services Levy will not be adequate to meet the Standard of Fire and Emergency Cover
- That there is no auditing of current resources

- That there are doubts about the effective administration of the Emergency Services Levy
- That ESAU has generated more administrative work for volunteers
- And that more needs to be done to improve the accounting practices of ESAU.

In light of this damning criticism of ESAU, my questions to the minister are:

1. Will the government admit that it made a horrendous mistake?

2. Will the government dismantle ESAU and devolve control back to the separate emergency services, thus saving well over $12 million a year in Emergency Services Levy funds and maybe just in time to save the morale of the CFS?

The Hon. K.T. GRIFFIN (Attorney-General): The answers to the honourable member's questions are 'No' and 'No'—and I do not accept the premise upon which they have been asked. There is no doubt that some issues arose when the Emergency Services Administrative Unit was established. The fact that it was established I think was a significant move, because what the government was seeking to do was to ensure that there was a much higher level of coordination between the various emergency services agencies which came under the broader umbrella of the Department of Justice.

The reconstruction of emergency services organisations by concentrating the administrative and support functions of the services within ESAU has, in itself, been significant in its impact on job content and the workload of the new staff. It was a mammoth task to bring so many people together from the different emergency services organisations to provide a coherent, cohesive and coordinated service for the emergency services operational agencies. In the midst of that was the change to the source of funding and the establishment of the emergency services levy and, of course, local government was removed from that cycle. All of that put the financial services and capital works and procurement to be managed by ESAU into completely new territory.

If members look carefully at the Auditor-General's Report—and I have had a look at that report in relation to ESAU—they will see that there is no doubt that the criticism needs to be addressed. The responses of the agencies have been properly noted in the report and, since the end of the last financial year, other things have been done which address the issues raised in the Auditor-General's Report. In fact, in his report the Auditor-General recognises the steps taken to articulate the strategic outcomes of the reform agenda and develop a strategic framework for emergency services.

In recognising certain problems and confirming them, as I have said, the Auditor-General has correctly and fairly identified matters which have affected his opinion about internal control, and a number of steps have been taken to address those. By the end of the financial year, corrective action was commenced by commissioning consultants Price Waterhouse Coopers to evaluate the policies, procedures, internal control, systems and human resources of financial services, as well as surveying its customers regarding service delivery, adding qualified staff to assist in delivering advice to the Country Fire Service, and bolstering tendering and procurement resources.

I should say also that the Auditor-General was kept informed of the recommendations of the consultancy and ESAU's plans to upgrade its financial services section. Additional consultancy advice and assistance has been sought in the formulation of best practice financial policies and procedures, and the successful tenderer is already in action undertaking the required task. Similarly, there have been improvements in the capital works and procurement reporting and procedures, which commenced following a tender evaluation and selection process.

The report of the Auditor-General has highlighted that that first year (1999-2000) was one of considerable change for ESAU's service clients but one of immense change for financial services when compared with prior years. I have no doubt that the way in which the administrative support for emergency services has been restructured will, in the longer term, have some significant benefits for each of those operational agencies. It is correct that the financial services branch was under-resourced for the role, but that is being remedied. If I have not fully answered any of the other issues raised by the honourable member, I will take them on notice and bring back a reply in due course.

The Hon. IAN GILFILLAN: As a supplementary question: does the Attorney, representing the minister, believe that the volunteers in the CFS are satisfied with the relationship between the CFS and the ESAU?

The PRESIDENT: Order! That is hardly a supplementary question.

The Hon. K.T. GRIFFIN: As I understand it, there was some questioning in some pockets but, now that the financial benefits are flowing through, it is my understanding that there is a great deal more satisfaction than there was; also that there has been some misrepresentation of the role of ESAU, but that is now being appropriately addressed and has been for some time, with a view to ensuring that everybody understands that in the end ESAU is about providing better services, which ultimately will flow through to volunteers and the wider community through the operational emergency services.

STATUTORY AUTHORITIES REVIEW COMMITTEE

The Hon. L.H. DAVIS: I bring up the report of the committee on its inquiry into the operations of the South Australian Community Housing Authority and move:

That the report be printed.

Motion carried.

EDUCATION UNION

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the leader of the government a question about the Australian Education Union (SA Branch).

Leave granted.

The Hon. L.H. DAVIS: I was fascinated to read the Wednesday 8 November 2000 edition of the *AEU Journal*, which is the voice of the AEU in South Australia. It was interesting to note that in the letters to the editor there was widespread criticism of the AEU. A letter signed by Annette Chigros and 26 signatories from Craigmore High School states:

> Hell! We would have been better off if we had accepted the government's initial [salary] offer over two years ago. What are we paying you for?

(She is talking about the unions.) She continues:

> You made that mistake last time and assured the membership that you had learnt from previous errors but you haven't.

I presume that Ms Chigros and the 26 other signatories from Craigmore High School were undoubtedly referring to the fact that the government made an offer to the AEU on

October 1998 and then finally the Industrial Relations Commission gave a decision in October 2000, two years later. It transpired that in fact a teacher on the top scale would receive $616 less over that period as a result of the AEU not accepting the government's original offer made two years ago. This was also reflected in a letter from Geoff Higgins of Lonsdale Heights School. In a rather lengthy letter, he makes the point:

> Many members are seriously considering withdrawing from the AEU. . . As educators, we focus on the power of the positive and working together to move the learning process forward. We don't encourage our students to focus on blame and revenge.

He further states:

> Secondly, I ask that AEU leaders consider why members are disenchanted with the AEU activities and stances on many issues within public education. . . Thirdly, I call on the AEU to start supporting debate on issues like P-21. . . There are school communities that include union members who have found some positives in this scheme. The AEU would do well to encourage members to exploit such positives. Why totally reject change because it comes from DEET?

Apparently, more than two-thirds of the schools in South Australia are now in the P-21 system. Finally, addressing the AEU leadership, Geoff Higgins states:

> Get off the negatives and focus more on the positives.

The Hon. Carolyn Pickles invited me to ask the Hon. Rob Lucas a question, so I am happy to reciprocate. My questions are:

1. Is the Treasurer aware of the growing criticism of the AEU?

2. Has he had any evidence of the fact that AEU membership in South Australia is declining and that parents are becoming increasingly disenchanted with the activities of the AEU?

The Hon. R.I. LUCAS (Treasurer): Given the shortness of time, I will not take the remaining time in question time to give a full and lengthy reply. I will take advice from the Minister for Education on this issue, as it is his portfolio area. Given my short period of four years as Minister for Education (as the honourable member will know), I believe the same criticisms were directed at the leadership of the AEU during that period as are now being directed at the AEU.

I can only agree with the signatories to the letter. If only the AEU were prepared to work with the government of the day—whether that happened to be Liberal or Labor—rather than taking a politically partisan position as it has done. We understand that it has up to $1 million to campaign against the Liberal Party in the period leading up to the next election—and that is just a further example of its political partisanship—when really it should be there in the interests of children and students within our schools, which is the objective of the Liberal government now, as it has been in the past and, of course, will be in the future.

ELECTRICITY, PRIVATISATION

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Treasurer a question about the Auditor-General's Report.

Leave granted.

The Hon. CAROLYN PICKLES: According to the Auditor-General's Report tabled yesterday, 10 firms applied for the communications consultancy for the ETSA sale but all 10 applications were rejected as being unsatisfactory. Even though ERSU cannot remember issuing this instruction, the lead advisers were instructed to find a 'strategic' adviser.

The firms were asked to submit their proposals to the Premier or the lead adviser, but evidence shows that Ms Alex Kennedy's firm had already begun working for ERSU on 27 April 1998, the day before it was interviewed by the Under Treasurer and two days before its appointment. Of course, Ms Alex Kennedy is a close associate and former staffer of the Premier. My questions are:

1. Why was the Treasurer involved in the appointment of ERSU's communications consultancy?

2. Can the Treasurer explain why the only firm interviewed for the job was the firm which included the Premier's close associate and former staffer, Alex Kennedy, who had started working for ERSU the day before her firm was interviewed for the job?

The Hon. R.I. LUCAS (Treasurer): I am happy to take some advice on that issue and bring back a reply. My recollection very strongly is that it was not actually Ms Alex Kennedy's firm that was successful but that it was Mr Geoff Anderson's firm—a former senior adviser to the Labor government and a colleague and working confidant of the current leader of the opposition, Michael Rann. I thought that the successful firm was Mr Anderson's firm and that Ms Kennedy was an employee of that firm. But I am happy to take advice on the correct corporate structure of the successful communications consultancy—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: And I said I will. I did not say I would refer it to the Premier: I said I will get advice and bring back the detail. It was almost three years ago when we appointed consultants and advisers. All I can say is that the formidable skills brought to communications and strategic issues that Mr Anderson and Ms Kennedy brought certainly assisted the process significantly during the long and tortuous process of almost three years that the government endured to bring about the successful completion of the electricity business privatisation.

MATTERS OF INTEREST

DIMITRIA FESTIVAL

The Hon. J.F. STEFANI: Today I wish to speak about the annual Dimitria Greek Festival which this year was held on 4 to 5 November. For the first time this year the Dimitria Greek Festival was jointly organised by the Pan Macedonian Association of South Australia and the Peloponnesian Federation of South Australia. In Greece, the Dimitria Festival was first held more than a millennium ago as an annual event which took place in Thessaloniki, the capital of Northern Greece.

In Byzantine times the festival was a form of fair, which provided an opportunity for recreation and commercial exchange. It took place on the outskirts of the beautiful city of Thessaloniki, which is more than 2 300 years old. Today, Thessaloniki remains the centre of commercial activities and the host of the annual Hellexpo, an international trade fair with more than 200 exhibitors from 49 different countries taking part to promote various goods and services.

In ancient times, the Dimitria Festival was a focus point for social life and was a great influence in creating trade opportunities for grain, wool, tobacco, cotton, dress materials, and copper utensils and iron tools used by the people living in the Balkans, from the Danube River to Peloponessus. Many of the participants also travelled to Thessaloniki seeking greater spiritual fulfilment and were particularly devoted to the patron saint of the city, St Dimitrius. Today, the most imposing cathedral of St Dimitrius remains a testament to these ancient religious traditions.

In South Australia, the first Dimitria Festival was held in 1979 and its program was officially launched by the then Premier, the Hon. Dr David Tonkin. Since that time the Dimitria Festival has been organised annually by the Pan Macedonian Association of South Australia (which is an umbrella organisation encompassing nine Greek-Macedonian associations and Vergina, the Hellenic Women's Cultural Society of the Pan Macedonian Association). This year, through the combined efforts of the Pan Macedonian Association of South Australia and the Peloponnesian Federation of South Australia, the festival drew a greater audience with many thousands of people joining in the festivities and activities.

In South Australia, the Dimitria Festival has become a showcase for the celebration of the ancient Hellenic culture, as well as many important family traditions. The festival provides an opportunity for South Australians to experience the rich cultural heritage, traditions, music and hospitality which is so generous and so typical of the Greek people. It has become a major event in the state's social calendar and has had the strong support of the Liberal government, including the state premiers John Olsen and Dean Brown as patrons of the festival.

The Dimitria Festival is a celebration of our diversity and the achievements of the South Australian Greek community which can be justly proud of its cultural heritage because it is directly linked to the ancient history of the Hellenic civilisation, which I was very privileged to experience and share on my three unforgettable visits to Greece.

In closing, I acknowledge that the Dimitria Festival would not have been possible without the magnificent efforts of so many dedicated volunteers who work tirelessly behind the scenes to ensure the success of the festival. I pay a special tribute to the President of the Pan Macedonian Association, Mrs Anna Volis, and the President of the Peloponnesian Federation of South Australia, Mr Jim Tsagouris. I also pay tribute to the members of the Dimitria Greek Festival organising committee, the festival sponsors and the countless number of volunteers who continue to make the Dimitria Festival an outstanding success.

Finally, I offer my sincere congratulations to all members of the Pan Macedonian Association and the Peloponnesian Federation of South Australia for their achievements, and I take this opportunity to wish them all continued success in the future.

ELECTRICITY, PRIVATISATION

The Hon. P. HOLLOWAY: I refer to the recent Auditor-General's Report, which is a matter of significant importance to this state. Of particular importance to this state is the gross incompetence and mismanagement that has occurred under the Treasurer of South Australia—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The Treasurer is a master of the smart line, but I am afraid that on this occasion he has been caught out well and truly in his conduct of business in relation to the ETSA sale. No wonder he is doing everything he can to try to distract attention.

The Auditor-General's Report found that the sales teams of the Treasurer failed to meet Treasury guidelines on the hiring of consultants. Under the Treasurer the standard terms and conditions for agreements with some ETSA consultants (and these were the people who received $90 million-plus in total; and the lead advisers alone were paid more than $21 million, including a $7.7 million success fee) were watered down.

The Auditor-General warned, of course, that in spite of the fact that this government had used success fees for the appointment of some of these consultants, even when it was unnecessary, and in spite of the increase of risk, there was an absence of documentation to support decisions on the selection of consultants; we were paying some consultants before their contracts were even signed; and there were a number of conflict of interest issues.

If we look at some of the comments that the Auditor-General made in the early part of his report, we see that he says, in terms of engaging lead advisers, that there were matters likely to give rise to public concern. In relation to allowing some of these advisers to change their position after they had been engaged, he says that that was at the least unfair as regards other proponents, and probably improper.

In relation to the fact that ERSU failed to enforce terms of the contract designed to reduce the fees payable to the lead advisers, in certain circumstances, that resulted in fees greater than they might otherwise have been, so we paid more than we should have. He found that the non-availability of a key member of the lead advisers created a situation for there to be a significant impact on the project.

The Auditor made a recommendation which, we have learnt just today, this government has rejected. The Treasurer is not prepared to address that issue. He told us that the state was placed in a potentially prejudicial position. We are told that this government and its advisers employed unsafe administrative arrangements and that these were inconsistent with good administrative practice. That is on page 5 of the report. We are told, in relation to success fees, that this was an unacceptable arrangement—again on page 5 of the report.

If we look at the role of the accounting adviser, we can see that the incorporation of a success fee reward structured into the contract was, in the words of the Auditor-General, 'inappropriate'. In relation to the failure to document evaluation and selection processes, the Auditor says that this does not represent good public administrative practice and may have a tendency to undermine public confidence in government procurement processes.

In relation to advisers performing services prior to the execution of a consultancy agreement, the Auditor says that it is a highly unsatisfactory situation that represents poor contract management (page 7-8 of his report). And finally, where consultancy agreements contain a mechanism for dealing with perceived conflicts of interest, we are told that advice from the Chief Commercial Counsel, Crown Solicitor's Office, to the electricity unit confirms that, unless an adviser has an actual conflict of interest or breaches confidentiality, the state can do nothing—we can do nothing. The Auditor says that this is a highly unsatisfactory situation.

There we have it, in the introduction of the report: they are some of the terms that the Auditor-General has used: 'highly

unsatisfactory', 'poor contract management', 'tendency to undermine public confidence', 'inappropriate', 'improper', 'potentially prejudicial', 'unsafe administrative arrangement', 'inconsistent with good administrative practice', 'unacceptable arrangement' and 'give rise to public concern'. These are the comments of the Auditor-General regarding the behaviour of this government in relation to the sale of the ETSA proceeds. A sum of $90 million has been paid to the consultants as a result of this process. That $90 million could have paid for a lot of teachers, a lot of nurses and a lot of police salaries. But what is the response of this Treasurer? He blames the messenger. He blames the Auditor-General, just like Jeff Kennett in Victoria, who sacked the Auditor-General. That is what this government wants to do. It wants to undermine the credibility of the Auditor-General. It will not face up to the facts.

Time expired.

EYRE PENINSULA TASK FORCE

The Hon. CAROLINE SCHAEFER: Last week I had the pleasure of travelling to Port Lincoln to attend the final dinner and winding up of the Eyre Peninsula strategy. Some members will recall that in April 1995 the Eyre Peninsula Task Force, which I chaired, was set up with a reference to develop for the Minister for Primary Industries a package of measures for implementation in the 1995-96 financial year to address reconstruction and related natural resource issues on Eyre Peninsula for consideration by the South Australian and commonwealth governments. That task force reported on time, and on 15 December 1995 former ministers Baker and Collins announced a package of adjustment and natural resource initiatives totalling $11.1 million.

The Eyre Peninsula Regional Strategy Committee was set up in April 1996 as a result of those recommendations, with Mr Jeff Pearson, a local farmer, and at that time vice chairman of the Eyre Peninsula Regional Development Board, as its chair. Funds were administered by Primary Industries SA, and Eyre Peninsula became the first rural partnerships program in Australia.

Over that time a number of projects were set up and worked on. Initially there were six projects over five years. A vision statement for the strategy was '. . . integrated, sustainable, viable and progressive industries based on self-reliant businesses that present a positive image of Eyre Peninsula.' As a result of that, by 1998 a number of marketing initiatives had begun, including the appointment of Eyre Peninsula ambassadors Shaun Rehn, Jenny Borlaise, Andrew Polkinghorne and Jeff Pearson. Better business centres were set up in conjunction with local government across Eyre Peninsula.

As a side issue, but a very enjoyable one, in October 1998 a project called EPIC, funded by the Australia Council and the Country Arts Trust, presented a live production in Minnipa, which many of us enjoyed. Perhaps more lasting projects include a desalination information centre and project at Streaky Bay, a reduced tillage systems program, a farming to land capability program, and increased participation in the top crop and property management programs. There is also the Cummins-Wanilla catchment basin program to divert waters and reclaim saline land. Clay spreading, as a new management practice, has been introduced for the improvement of water repellent sands.

Again, included in the highlights for me has been watching this committee work so effectively, and the additional funding of $1.8 million to the Minnipa Agricultural Centre Development (which had been a recommendation of the task force), the establishment of new offices and laboratories, and more than $1 million over five years for additional research into low rainfall farming systems, which all extend the thrust of the Eyre Peninsula regional strategy projects. By 1999, more runs were on the board, including positive press and image building. The successful programs were, as I have said, farming to land capability, managing soil erosion, property management planning, top crop and education and training services.

Some program highlights which were brought out by the assessment of the success of this program were that 41 per cent of Eyre Peninsula farmers were involved in the top crop systems compared with a state average of less than 20 per cent. From that program, Eyre Peninsula produced five out of six state award winners in 1997, and three national and one state award winner in 1998. The property management program had a participation rate of 47 per cent across Eyre Peninsula compared with a state average of 20 per cent, and both the top crop and property management programs were introduced in schools. I congratulate all those involved and look forward to their succession planning which will involve the community.

Time expired.

ANHYDROUS AMMONIA FACILITY

The Hon. R.R. ROBERTS: I rise today to speak about an anhydrous ammonia facility at Port Augusta. Members will note that yesterday I asked questions of the Minister for Transport and Urban Planning on this matter. I was disappointed that the minister, under the provisions of the current development act, was unable to intervene and set up an independent inquiry into all the matters concerning the establishment of this facility. It is interesting to note that under the new provisions of the development act, which were passed yesterday, that would now become possible when that legislation is assented to.

This matter has caused a great deal of angst in Port Augusta, and unfortunately there are two camps developing: those who support the council—and they are a much smaller group—and those who support the mums and dads and children of Port Augusta who have legitimate fears in respect of this project and the effects on them and their family life in having a facility of this nature, with its potential dangers, established within 25 metres of their kindergarten and a playground, a playground which was developed by the council after the land was given to it by Australian National some years ago.

So, what is the situation? Clearly this is not a political issue any more. It is not an issue of state politics. It is not an issue of local government. It is an issue about the community of Port Augusta. What is clearly required here is a dispute resolution program. I believe that there ought to be an independent convenor of a meeting designed about getting a public outcome which is acceptable to all the parties and which would require education of those people concerned about the effects of the industry. It would require goodwill by the council; it would require commitment from the development board; and it would obviously require the absolute confidence of the community in respect of the process.

If the company concerned wants to be a good corporate citizen, and I have no reason to believe that it does not, the

very fact that the council, under the provisions of the act, has had the right to make some of these decisions does not make the decision right or acceptable in the minds of the people. So, if the argument is now whether it is the policy of the council which prevails or whether it will be the people of Port Augusta who will prevail, I would have to suggest that the people's concern ought to be addressed.

Given that all parties to this dispute (which is the only way to describe it) are committed to the eventual establishment of an anhydrous ammonia facility at Port Augusta, given the fact that there is ample land adjacent to the railway line, and given also that the product itself as I understand it will not be used within the town limits, I think a sensible arrangement can be made by people of goodwill trying to resolve this problem. I would encourage them to do so.

I do not know whether the local member, Mr Graham Gunn, is the right person to do this. I understand that he has been approached but has resolved in his own mind that the council had a perfect right to make this decision. If the minister, one of her officers, or even the development board at Port Augusta were to take the lead and do what it has been established to do, and that is to provide industry to Port Augusta in a safe and proper manner for the benefit of all people in Port Augusta, and if the council takes seriously its responsibilities to its ratepayers, I believe that what I am proposing—a meeting of people of goodwill—could tackle these matters and come up with a solution to the problem which would provide dignity for all those involved in the process so far and provide a safe working and community environment for Port Augusta and the Mid North.

PHYSICAL FITNESS

The Hon. L.H. DAVIS: I was fortunate enough at my own expense to be a spectator at the Olympic Games in Sydney in September and early October. I was interested that the Prime Minister, John Howard, immediately after the games referred to the enormous goodwill that existed as a result of those games and the potential they had to encourage people to take up recreational activities for their physical well-being. I hope that the federal government develops a program along those lines, not only in the schools but in the wider community, because we should not only reflect on recreational activities and physical health but also perhaps encourage people into better dietary habits.

Recently I received from the Australian Institute of Criminology a paper in its very good series *trends & issues* entitled 'Crime Prevention Through Sport and Physical Activity'. Adam Graycar, the Director of the Australian Institute of Criminology, who has a former connection with this state, makes an interesting comment about this paper when he says:

> It examines wilderness programs, programs in which youth participate and learn skills, and programs in which the sense of belonging reduces vandalism and develops other pro-social behaviours.
>
> Of particular interest are sports carnivals in Aboriginal communities. When the carnivals (organised and run by Aborigines for Aborigines) are held, they act as catalysts for social and traditional cohesion. Harmful behaviours such as petrol sniffing, heavy drinking and violence are prohibited for the duration of the carnival and the prohibitions hold in the short term.

Mr Graycar observes further:

> At another level, elite sporting clubs can reach out into their communities. The example in this paper is the (British) Liverpool Football Club, which has had success in quit smoking programs, coaching, truancy reduction, and even reducing the number of hoax calls to the local fire brigade.

The authors of this document, which is a six-page paper, Margaret Cameron and Colin MacDougall, pose the question: can sport and physical activity be used as strategies for crime prevention? They argue that the evidence is encouraging. They make the following conclusions:

- Sport and physical activity can combine with other interventions to reduce crime in particular groups and communities.
- It appears that sport and physical activity can reduce crime by providing accessible, appropriate activities in a supportive social context. In other words, sport and physical activity must be connected positively within the social fabric of groups and communities.
- Sport and physical activity-based interventions must be considered in collaboration with a range of other strategies and sectors.
- Elite sporting bodies can be involved in programs directly aimed at particular crimes or communities.
- It is essential to consider how the design, location and funding of sporting and recreational infrastructure contributes to social cohesion and avoids taking sport and physical activity out of its social context.

They make the following observation:

- The cases do not suggest 'one size fits all' strategies; instead, they represent the value of community development approaches to tailor programs to particular needs. Nevertheless this should not prevent us from suggesting common strategies and processes, and collecting examples of good practice.

They list a number of examples of programs that have been successful. They instance, for example, the South Australian program, Operation Flinders, which is a wilderness therapy program for at-risk young people. My colleague the Hon. John Dawkins and I have had some links with that program, which is run for young men and women who have either breached the law or are at risk of breaching the law. They go on a wilderness program in the Flinders Ranges for seven days.

There are also questions about sport and physical activities as strategies in crime prevention, and the authors accept that that needs rigorous scrutiny. However, the paper indicates that this therapeutic approach to crime amongst young people, people at risk, Aboriginal groups and others is an idea that is worthy of follow up, by both federal and state governments, and all those groups that are interested in reducing crime, particularly amongst young people.

Time expired.

DIVERSITY DIRECTIONS

The Hon. CARMEL ZOLLO: Today I will talk about the work of Diversity Directions, formerly known as the Multicultural Child Care Unit. The major objectives of Diversity Directions, as listed in its constitution, are:

> To develop a central resource unit of material, information and expertise to assist child-care services in meeting the needs of the multicultural community.
>
> To assist staff and management of child-care services to improve the cultural appropriateness of their services to children and their families.
>
> To encourage access and participation in child-care services (both in programs and management) by families and children from diverse cultural backgrounds.
>
> To develop public awareness of the child-care needs of children and families from diverse cultural backgrounds.

Diversity Directions is housed at Bowden, with regional offices in Whyalla and Mount Gambier. A multicultural child-care unit is also based at Bowden, with offices in Renmark, as well as Whyalla and Mount Gambier. Diversity

Directions is a registered training provider and has been providing a service to community organisations and businesses in the area of cultural awareness since 1986.

I attended the AGM of Diversity Directions recently and I am pleased to have been invited to accept a position on the board of management. As well as the AGM, there were two other important events: the launch of the new name 'Diversity Directions', and the state launch of the video and booklet *Let's Play Fair: Helping Young People Tackle Prejudice*. Diversity Directions is funded by the commonwealth government, with this particular project being supported by the commonwealth government's Living in Harmony initiative. The video was shown on the day and received much acclaim. It is one of only four projects in South Australia that receive funding from the Living in Harmony grant.

The educational program is described as seeking to provide practical ways for parents, carers and educators to work with young children to recognise and challenge prejudice and to promote tolerance and fair play. The booklet and video are used to promote these practical ways, and I understand that further promotional items and translated materials will be used in workshops in a sampled selection of childhood services in South Australia. *Let's Play Fair* is described as providing a professional framework for parents and services to be confident in using an approach to tackle discrimination in the early years, the beginnings of pre-prejudice in young children. That is when children are likely to experience a mixture of misconceptions, fear, insecurity and discomfort that could develop into real prejudice unless adults intervene with simple proactive steps.

I believe the program will be a huge success because it provides practical solutions and examples of ways to deal with prejudice. The need for such a program is beautifully summed up by a quote (from the publication by Dau and Creaser 1996) printed in one of the information sheets that Diversity Directions has put out about the program. The quote states:

> If we are to build a just society, we must challenge prejudice at its roots in early childhood and teach young children to recognise and challenge prejudice. We must teach them words and skills they need to take action against unfair treatment and involve parents and community members in this approach.

I am certain all members support the objectives of Diversity Directions. The dedicated team of program support officers, who assist with multicultural programs and resources, as well as casually employed staff, who assist in individual cases, represents a complete turnaround from the reality that faced the many thousands of South Australia's post World War II migrants.

I did not attend child care in Australia, but my memories of my early school days beginning with reception are not particularly happy ones. I well remember the anxiety, fear and confusion of being in a new country, new school and new way of life without a word of English and absolutely no help. The many prejudices will never be forgotten. We as politicians say that as a community we are judged by the manner in which we treat our most vulnerable—our young and elderly citizens. The work of Diversity Directions is invaluable, and I am pleased to see the recognition and importance placed by the federal government on that work.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: NATIVE FAUNA AND AGRICULTURE

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

That the report of the committee concerning native fauna and agriculture be noted.

I think that all Australians recognise the value of native fauna as an integral feature of our unique environment. The clearing of native vegetation as a result of 164 years of agricultural and pastoral development in this state has had a significant effect on the numbers and behaviour patterns of some native fauna in this state. Whilst some fauna have been affected by fragmentation or loss of habitat, many species have been influenced in a positive manner, including protection from predators, the provision of water and access to cultivated grain and fruits.

In a changing landscape fauna has had to adapt, with many native species increasing in abundance. In some cases this is impacting significantly on our agricultural production and management costs. Bird species identified by the Department for Environment and Heritage as coming into conflict with agriculture in this state include lorikeets, rosellas, long-billed corellas, red wattle birds and silver-eyes.

The committee has examined the interaction of native animals with agricultural activities and, in particular, proposals and/or approvals to shoot native bird species. This is an issue that can engender an emotive response and can have the potential for an undesirable impact on product image. Importantly, this issue is not just about bird numbers but about species behaviour and habitat areas. Both of these aspects can be influenced and managed.

Traditionally, individual property owners without comprehensive information regarding ecology and bird behaviour have addressed problems with abundant birds. A range of management methods have been used and experimented with, including shooting, the use of audible bird scaring devices, netting, trapping, the use of poisons and the use of decoy feeding crops.

The committee concluded that there is no single solution to this issue and that integrated management needs to be adopted by a range of interest groups, including the growers, industry groups, rural landowners who possess native vegetation, public agencies, research institutions and the broader community. There is a need to consider the issue regionally rather than on just a property-by-property basis. This includes management of the provision of habitat, protection of agriculture and influencing of bird behaviour.

The management of bird species and habitat diversity is a complex task made more difficult by a limited understanding of native fauna. There is industry-wide consensus on a shortfall in the amount of information available. Research groups and industry are currently undertaking work, but ongoing resources are needed to improve the understanding of issues such as population sizes, numbers that have been culled (including species killed through off-target losses), bird behaviour, impacts of culling on genetics, and the success of various management practices.

There are currently limited resources within the industry and government for researching or monitoring bird or farm activities. An education system is also needed to encourage and develop appropriate fauna management practices on the land. A program needs to be targeted at landowners, enabling them to prepare property management plans. In controlling

land uses, the planning system has responsibility for considering regional and local impacts.

The committee believes that planning authorities need to assess the consequences of changes in land use on fauna, and landowners need to be educated on implementing best practice. The use of audible bird scaring devices is also an issue that impacts on communities. If used incorrectly, evidence suggests that the effectiveness of such devices is significantly reduced. There is a need to control the use of such devices and to determine land use patterns that avoid conflict. As a result of the findings of the committee, nine recommendations have been put forward.

1. The committee recommends that dedicated resources from the Department for Environment and Heritage should be allocated to address the issue of bird control as it relates to agriculture, and that those resources should be responsible for facilitating:

- the coordination of cooperation between research institutions, industry, conservation groups and state and local governments;
- the development of property, regional and statewide management plans;
- the determination of the effectiveness of methods employed for crop protection;
- the management and the testing of alternative methods; and
- revegetation programs designed to draw fauna back to a natural habitat, including the coordination of community revegetation programs to achieve these ends.

2. The committee recommends that a code of practice be prepared, endorsed by all interested parties and incorporated in a licensing system.

3. The committee recommends that legislation should be amended to provide for a licensing system that regulates the use of culling and audible bird scaring devices and:

- requires compliance with a code of practice;
- requires a property management plan;
- a reporting process for the collection of adequate data;
- includes penalties for breaching the provisions of a licence; and
- provides (if appropriate) for the disposal of culled animals.

4. The committee recommends that education (including courses, possibly at TAFE, government advice, industry programs and awareness programs) should facilitate preparation of integrated property management plans that include bird management plans addressing species identification, use of audible bird scaring devices, culling practices and alternative bird damage minimisation approaches.

5. The committee recommends that the Development Assessment System be amended so that it:

- promotes a regional perspective on the appropriate provision of habitat;
- considers the impact of changes to native fauna as a result of changes in native flora; and
- includes the requirement for a fauna impact statement with any proposed developments.

6. The committee recommends that further research on genetic implications of culling should be encouraged and pursued by the Department for Environment and Heritage, growers and research institutions.

7. The committee recommends the conditional use of audible bird scaring devices where the department and industry cooperate in the use of such devices, emphasising the use of these devices not in isolation but as part of an integrated strategy with multiple devices; and also where the Development Planning System takes into consideration the impact of audible bird scaring devices when zoning for residential and agricultural land uses.

8. The committee recommends that the Environment Protection Agency should take the lead role in controlling the use of audible bird scaring devices, including the imposition of penalties for a breach of licensing conditions and illegal use. The role of local government in assisting the Environment Protection Authority should be discussed through the current state/local government partnership program (which will commence shortly).

9. The committee recommends that the Minister for Environment and Heritage report annually on what research has been done on alternative methods of bird management and on each species affected by culling, including the estimate of the total population of each species and an estimate as to how many were killed in the previous 12 months. The committee also hoped that that information would include how the estimates were derived.

I would like to thank those who assisted in the inquiry, including those who made submissions and gave evidence, the Minister for Environment and Heritage and his staff, and the staff of the committee. The impact of agricultural development on native fauna is yet to be fully realised, but many changes have subtle impacts that are often expressed over hundreds of years in terms of changing patterns of native flora and fauna. A concerted effort in the immediate few years will be an important step in collecting necessary information and managing both bird habitats and agricultural practices for the benefit of the community and the economy of South Australia and, of course, the environment. I look forward to the minister's response to this report.

The Hon. M.J. ELLIOTT: I support the motion that the report of the Environment, Resources and Development Committee concerning native fauna and agriculture be noted. As a consequence of European settlement and changes in our flora due predominantly to land clearance, there have been a number of changes in relation to native fauna. Obviously, some fauna that are dependent upon vegetation being cleared have decreased significantly in numbers. It is probably also true that some species have actually increased as a consequence of European settlement. For instance, the magpie feeds largely in open areas, so the large amount of clearance has led to an increase in the number of magpies. Luckily for us, magpies are not agricultural pests, so, although there has been a change in their numbers, there have been no consequences.

However, it is true that some species which have increased in numbers have had an impact on agriculture. Although the committee did not spend any real time considering this issue, the massive increase in kangaroo numbers has been a direct consequence of both clearing and the provision of water in many areas. I think that for some time it has been accepted that the numbers of certain species of kangaroos are unnaturally large, that they are not endangered in any way, and that in large numbers they create a cost for the agricultural community. Culling has been accepted, although I think it is fair to say that some people would argue that we should be looking at ways to reduce the cull by seeking to reduce their numbers by, for instance, changing the way water points work, particularly in pastoral areas.

The issue of kangaroos has been discussed for many decades, but it has been only in the last decade or so that there

has been a significant increase in the debate about the impact of bird species, particularly in the Adelaide Hills and in relation to horticulture. I think it would be fair to say that the quality of information received so far is not particularly good. Although culling has been allowed for some time, government officers simply do not know the numbers of the various species or how many are being culled on an annual basis. It is difficult to make an informed decision about the right way to go when that basic information is not available.

So, the very first finding of the committee relates to the fact that we need much better information and research. It may prove that, in respect of some bird species, it is not the increase in number that is the problem but that the change in habitat has removed some food sources, particularly at certain times of the year. Many parrots feed on nectar in some eucalypts at certain times of the year, but if those eucalypts are scarce they will look for another form of sustenance. Unfortunately for fruit growers, that might turn out to be fruit.

As I said, we need to know whether the problem is simply that, first, bird numbers have increased and that is why they have become a pest or whether, secondly, their natural food source is no longer available. If that is the case, we do have an option in the long term. It will take a decade or two to resolve it, but we can ensure that their natural food source is boosted. The report touches on this. Of course, this is a longer term solution, but it might be that the birds have changed their habits and the other food source is still there. If that is the case, we will have to react differently again. The first thing that we need is better information than we have had so far. I know that the minister has said that we can cull, but at this stage we do not have a scientific basis for the cull in terms of knowing the correct thing to do and what the long-term consequences of the granting of a cull are likely to be.

It became quite apparent during the evidence that, at this stage, many horticulturists do not have integrated management plans on their properties, particularly in relation to the management of birds. For instance, some simply set up gas guns, and away they go, yet the committee has received evidence that gas guns can be totally ineffective if they are not used as part of a management plan and if there are no tactics in terms of the way they are used. Simply having a gun going off all day at regular intervals is of virtually no benefit at all. In fact, after a while it becomes an advertisement that there is fruit nearby. The birds learn that, if there is a gas gun, there is something worth eating nearby. Parrots are pretty smart birds and do not take long to work out something like that.

Similarly, the committee received evidence that some people use shooting in a haphazard way and not as part of an integrated plan. Whilst they manage to shoot a number of birds, that does not act as a deterrent. So, they are just constantly shooting more birds but, if that was combined as part of a bigger program, the evidence showed that culling could be used if it was done carefully and in a managed way. Just going out into the paddock occasionally and shooting a few parrots makes very little difference in terms of how much damage is done, particularly if they become smart enough to realise that you are going to take a couple of shots and go away again, and they just sit still in the trees.

There is one species of a very brightly coloured parrot in the Riverland which sits in the top of a tree, makes a lot of noise but does not eat much fruit. There is another parrot which actually eats most of the fruit and which is green in colour and tends to stay in the middle of the tree. The parrot that gets shot is the brightly coloured one that sits at the top of the tree making all the noise. The fruit growers experienced absolutely no impact whatsoever in terms of damage to the crop. It is not surprising that that brightly coloured noisy parrot is pretty rare and probably becoming increasingly rare because of its habit of sitting at the top of the tree making a noise.

An honourable member: Is that the Legh Davis parrot?

The Hon. M.J. ELLIOTT: My recollection is that it is the Regent parrot—I am not absolutely certain—but it might be commonly known as the Legh Davis parrot. There are a couple of messages in all this. First, simply going out and shooting a couple of parrots may not make a hill of beans difference to how much crop damage you actually get. Whether it makes you feel any better because you have tried to do something about it, I do not know. But if, at the end of the day, the return to horticulturists is no greater, it really has been a terrible waste of time and counter-productive.

I will not cover everything in the report, because that has already been done by a previous speaker. Probably the most important recommendation is a suggestion that there be a system of essentially licensing people who want to be involved in culling and using gas guns, and that there be an expectation that, for a person to be licensed, they must have a management plan. In other words, rather than saying, 'You can go ahead and use a gas gun to your heart's content and shoot parrots or any other bird that is causing a problem,' you must have a plan of action. We also recommend that it is important that courses be made available for horticulturalists to assist them in the development of such a plan.

I think that this should be welcomed by people all round. It should be welcomed by people who live anywhere near gas guns, because a proper management plan will involve gas guns being used less frequently but, I would stress, more effectively. People who are concerned about culling would welcome it, because we would probably find fewer birds being shot. Finally, and most importantly, I hope that horticulturalists themselves welcome it because, if it means they have more efficient practices, which means less but more calculated effort from them and less expense and less damage done to crops, that has to be seen as a major benefit for them as well.

It is also important that we establish a code of practice for the way one goes about culling. I believe that some people cull by using a short life poison. That is not a poison that kills the bird in the first instance, but it knocks it out so it can be collected. There is a danger that if you do that and do not collect the birds they will fall to the ground and while they are on the ground they will be attacked by ants and so on, and a great deal of unacceptable suffering could occur. A code of practice would have expectations about how you carry out certain practices. It is also important that we establish a reporting process to ensure the collection of adequate data. The point I made very early on was that we do not have adequate data and, if we are to make sensible and informed decisions in the longer term, they can be made only on the basis of good information.

Importantly, my final point is that we do need a long- term plan, which may include the provision of habitat that the birds will use as an alternative feeding place. There is no question that significant parts of South Australia need some revegetation work. The revegetation work can provide a number of benefits: everything from providing shelter to stock to lowering ground water. Importantly, if you use the right species, it could also provide an alternative food source.

Then, as part of integrated management across a region, if you seek to displace the birds from the horticultural areas, they have somewhere to be displaced to, where they can feed. I note that that may take some time, but really we do need a long-term plan which guarantees the ongoing existence of the fauna whilst minimising the negative interaction it has with horticulture. I support the noting of the report.

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

GAMBLING IMPACT AUTHORITY BILL

The Hon. M.J. ELLIOTT obtained leave and introduced a bill for an act to establish the Gambling Impact Authority and to provide for its functions and powers; and for other purposes. Read a first time.

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

That this bill be now read a second time.

There has been increasing debate both in the community and within this place about gambling and its impacts. There is no doubt that the level of gambling in this state is increasing quite dramatically, and I think it should be noted that it is likely to continue to increase as a consequence of other moves the government is seeking to introduce. Whether they will be successful at this stage we do not know but, for instance, there is a proposal for proprietary racing, which will involve further gambling opportunity, and there are also proposals for the privatisation of the TAB and the Lotteries Commission. I have already been lobbied by some people interested in purchase, and there is no doubt that in seeking to purchase the TAB they certainly want to grow the product further. That is understandable; as private businesses their aim is to continue to try to grow. So, by way of legislation before the parliament right now, the government is effectively seeking to increase the level of gambling in this state further.

The reason for this bill is not to oppose gambling: it is simply to recognise that a very significant minority of persons are impacted upon by gambling. One can argue about the precise numbers, but not only do we have the people directly affected—those people who lose their own money, if you like, and some people might like to paint it as their own stupid fault—but also they are often married and have children. They are often impacted upon and do not make any of the choices that are made by the person who is gambling. Often their bosses will suffer. An awful lot of crime is committed to pay for the gambling habit, and a lot of it is unreported. The person loses their job, but there are quite massive levels of fraud. The negative impacts of gambling are significant. No sensible person would deny that there is a significant level of gambling-related harm.

For quite some years I have been arguing that we need a gaming commission in this state. I have been involved in a number of meetings and discussions with a wide range of groups and individuals. My present view is that we do not need a single gaming commission but that we need two bodies with quite distinctly different roles. We need a single body which acts as a regulator of gambling in the state. Instead of having the Liquor Licensing and Gaming Commissioner and the Gaming Supervisory Authority, I think there should be a single body which would seek to regulate so far as it can other new gambling opportunities such as the proposed proprietary racing and which may even regulate so far as it can, at a state level, internet gaming.

I do not think we should have different rules in relation to different forms of gambling. There should be high levels of probity for all of them. If people are to be involved, they should be licensed. That is the issue of the regulation of gambling, and I argue that that should be done under a single body. However, that is not the body that I am talking about in this bill.

The other important role that needs to be carried out is the independent monitoring of the impacts of gambling in this state, and that is what the gambling impact authority is about. It is not about controlling or regulating: it is about monitoring and recommending. The gambling impact authority I am proposing would be composed of seven people, five of whom were not involved in the gambling industry in any way and one of whom would be the chair of the authority. The liquor and licensing—

The Hon. Caroline Schaefer: How can you be sure they weren't involved in any way?

The Hon. M.J. ELLIOTT: I mean in a financial sense. It already exists in other legislation. If you read the Gaming Supervisory Authority Bill, you see that that sort of issue is already addressed, and the bill addresses it in exactly the same way. That was a government bill, so if you want to ask those questions—

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: If you look at my record on gaming machines, you will find that before Nick came into this place I was very actively involved in the gaming issue. On top of those five—and as we have other structures in place that should be involved—I think that the Liquor Licensing and Gaming Commissioner would be a member of the authority as would one member of the Gaming Supervisory Authority.

The functions of the authority are to monitor the social and economic impact of gambling activities in this state; to assess the extent to which gambling activities are or are not being conducted in this state in a responsible manner; to monitor the administration and enforcement of the prescribed acts; and to assess the extent to which that administration and enforcement enhances or diminishes the responsible conduct of gambling activities. In other words, while it does not have a regulatory role, it will be in a position to monitor the regulators and to make comment upon the regulators and the carrying out of their role.

It also has the function to propose amendments to legislation, modifications to the manner in which legislation is administered or enforced, and other strategies that the authority considers necessary or desirable for the purpose of enhancing the responsible conduct of gambling activities in this state. So it would be in a position, for instance, to make recommendations. For example, when talking about responsible conduct it could talk about advertising of gambling product, and it could talk about the liquor policies that are used by outlets which involve both gambling and the sale of liquor. It would also provide advice to gambling entities about the responsible conduct of gambling activities, and in particular the development of codes of practice designed to promote such conduct.

In some areas in gambling there has been an attempt to develop codes of practice. I believe that the gaming impact authority would be in a position to provide advice in terms of the development of codes of practice and changes to existing codes in such a way as to minimise harm, and to exercise the other powers and functions conferred on or

assigned to the authority by or under this act or by the minister.

While I talk about the minister, I would ask members to note that the minister is the Minister for Human Services. If we are talking about gambling related harm, we are not talking about an economic issue but a social issue, and I believe that it would be inappropriate for this authority to be reporting to anybody else other than the Minister for Human Services.

It also should be noted that this authority would be independent in terms of its action: other than where this act specifically empowers the minister to give specific direction otherwise in carrying out the functions as spelt out in the bill, it would be totally independent. While the bill runs to some nine pages in total, an awful lot of the clauses are functional clauses. They relate to issues such as allowances and expenses and addressing conflicts of interest, and I suppose off-the-shelf clauses almost, which I do not think anybody would take any offence to in themselves.

Importantly, I think the role of the authority is to provide information—information for the public, information for the minister and information for the parliament—that allows for sensible decision making to be carried out. It is one of the reasons why I chose not to give this gambling impact authority any powers other than the power to make inquiry. So this authority can summon people before it if it requires information, but I think its major sources of information will be from the various gambling regulating bodies that we now have in South Australia, including from the multitude of church and other groups, and family and community services that are working with the victims of gambling addiction.

The authority would have the power at any time to prepare and present to the minister reports that it considers necessary or desirable for the performance of its functions. So it can report at any time to the minister. It would also be required to make an annual report that would be presented to the minister. In both cases there would be an expectation that within 12 sitting days a report of the authority would also be laid before the parliament, therefore becoming publicly available. That covers it in a nutshell.

As I have said, for a long time I have been calling for a gaming commission. I now recognise that we need two bodies rather than a single body. First, we need a regulating body that brings together all the regulatory roles of a range of different bodies we currently have in South Australia and, perhaps, covering things such as internet gambling and proprietary racing which are currently not covered. That regulating body would also need more teeth than is currently the case.

The Hon. Nick Xenophon: What teeth does it have? It doesn't even have dentures.

The Hon. M.J. ELLIOTT: That is what I am saying. It has some teeth but they have not been used for a while. I would then move over to the other body, which could play a role by monitoring the performance of the regulator in so far as, if the regulator fails to do the job and, effectively, as a consequence of that there are victims, the authority would blow the whistle. So, it would act as a monitoring body for the regulator but with no regulatory power of its own; its major power would be to investigate and report.

Where it is ultimately important is that we would have an independent body appointed by the minister with the expertise both within and available to it to enable it to ensure that public debate is informed and non-political in relation to future directions. I would expect that such a body would deal with issues that some honourable members of this place—such as the Hon. Nick Xenophon and I—have raised in terms of gaming machines not necessarily being the whole problem. The biggest problems are the way the games work and the way the gaming machines work.

The Hon. Nick Xenophon interjecting:

The PRESIDENT: The Hon. Mr Xenophon will have plenty of opportunity to contribute to the debate.

The Hon. M.J. ELLIOTT: I think the honourable member has been very good.

The PRESIDENT: The honourable member is out of order.

The Hon. M.J. ELLIOTT: Well, he has been worse.

The PRESIDENT: And it is only Wednesday, too.

The Hon. M.J. ELLIOTT: It would continue to monitor the way gaming machines operate and I suppose pick up new trends. The industry will constantly have its psychologists and lawyers at work finding new ways of getting around the intention of the current set of rules. It could monitor what is happening with all the various gambling codes and, if it finds areas of concern in some establishments, such as advertising behaviour and the serving of liquor, or any number of things, it would bring those matters to the attention of the public and the parliament. The public and the parliament could then make decisions as to whether or not there should be any action as a consequence. I urge all honourable members to support the bill.

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

GAMING MACHINES (FREEZE ON GAMING MACHINES) AMENDMENT BILL

The Hon. NICK XENOPHON obtained leave and introduced a bill for an act to amend the Gaming Machines Act 1992. Read a first time.

The Hon. NICK XENOPHON: I move:

That this bill be now read a second time.

It is a bit like Ground Hog Day or deja vu, or whatever. In its existing form, this bill was debated substantively in this chamber a number of months ago. I was going to reflect on comments made by the Premier, Hon. John Olsen, on this issue given his previous very strong statements that reflected community sentiment on the impact of poker machines in the community. I will do that in short order, but events appear to have overtaken us, given that I was advised by journalists only a few moments ago that the Premier has announced that he will be introducing a government bill to cap poker machines and it will be introduced next week rather than March—

The Hon. A.J. Redford: It might have to go to the party room.

The Hon. NICK XENOPHON: I can only report to the Council that the information I have via the Premier's office is that there will be—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order, the Hon. Mr Redford!

The Hon. NICK XENOPHON: I can only tell honourable members of my understanding via the Premier's office that there will be—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order! The honourable member will cease interjecting.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order, I warn the Hon. Mr Redford!

The Hon. NICK XENOPHON: I understand that next week a government bill will be introduced in the other place to freeze the number of poker machines in South Australia. I have not seen the bill and I am unaware as to whether it is similar to the bill debated in the other place and in this chamber only a few months ago. However, I think it is worth reflecting on the statements the Premier has made in relation to poker machines over a number of years. On 3 January 1997, under an *Advertiser* headline '"Pokies: enough is enough" says Olsen', the Premier made a very strong statement with respect to the impact poker machines have on the community. It is fair to say that the statements made by the Premier at that time and subsequently have reflected fairly overwhelming community concern about the impact of poker machines in South Australia. In 1997 Mr Olsen told the *Advertiser*:

> The time had come to end 'open slather' approvals for poker machine venues, particularly those proposed for shopping centres.

He also referred to the impact of poker machines on small business and the community and followed up his statements several months later in the House on 9 December 1997 when he said:

> We made a mistake with poker machines in South Australia, and I think it is time that we admitted it. Five years ago the Gaming Machines Bill was a conscience vote in this parliament. That bill was a mistake. It was a mistake because it allowed the introduction of poker machines into hotels and pubs as well as into licensed clubs. It was ill-conceived and ill-considered.

The Premier did speak in very strong terms about the easy access to poker machines and how this easy access on almost every street corner has destroyed individuals, families and businesses. None of us had any inkling that this would occur, but it has. None of us knew then, nor probably would understand now, but we have to accept the views of experts who tell us that poker machines can turn the most unlikely people into gambling addicts. It is a fact that people who never would have bet on anything other than the Melbourne Cup have lost their wages and their shirts at poker machines. We do not know why, but it happens. The devastation that poker machines have caused in this state has reached a level where we have to say, 'Enough is enough.'

The Premier has made subsequent statements in relation to poker machines. He supported the bill introduced by the member for Gordon earlier this year, and on 30 April the Premier again spoke in very strong terms with respect to poker machines. Given the Premier's most recent statement on 24 November that he will move to cap the number of poker machines, it is important that this issue be debated as a matter of urgency. He has foreshadowed that it will be a government bill, as distinct from a private member's bill and, as such, could well be a signal to the industry to start a stampede of applications in the coming months. And given the policy of successive Liberal state and federal governments on the issue of backdating legislation to the time of an announcement, particularly when it relates to taxation legislation, legislation that affects particular entitlements, it would seem appropriate that this bill be debated as soon as possible. This puts the hotel industry on notice that this bill aims to implement a freeze backdated from the Premier's very strident announcement on 24 November.

The bill is similar in terms to the bill that was debated in this chamber earlier. I do not propose to unnecessarily restate what is contained in that. It does deal with the surrender of a licence and revocation of a liquor licence so that it avoids any unintended consequences with respect to surrenders of liquor licences. This is something that was a subject of a consultation with the industry, as I understand it: appropriate advice was sought as to any unintended consequences when the bill was debated in the lower house. It also seeks to ensure that, with respect to surrenders, there are a number of mechanisms in place so that landlords, for instance, are not put in an invidious position with respect to any dispute between a landlord and a lessee in those circumstances where a gaming machine licence is at issue. These amendments are not unreasonable, given the debate that occurred several months ago.

It is disappointing that the Premier has not indicated whether the bill that he will be introducing as a government bill next week will be a government bill in the fullest sense of the word with respect to its being government policy. The Treasurer has indicated—

Members interjecting:

The Hon. NICK XENOPHON: The Treasurer and I think the Hon. Legh Davis has indicated that it will be a conscience vote. It is worth reflecting on bills—

The Hon. L.H. Davis interjecting:

The Hon. NICK XENOPHON: The Hon. Legh Davis says that, unlike other members in the chamber, he has been consistent on that.

The Hon. L.H. Davis interjecting:

The Hon. NICK XENOPHON: Sorry, the Hon. Legh Davis said that his party has been consistent on that. I do raise the issue that, in New South Wales, Victoria and Queensland, legislation has been passed as government policy to implement changes to gambling law regulations, including having regional caps on poker machines and restrictions in respect of the granting of further licences. In those circumstances, the governments in those states have stated that this is an issue of primary government policy.

The issue of a conscience vote presumably related to whether or not a form of gambling was introduced into the state. That decision was made. This relates to the approval of further licences, and the challenge must be given to the Premier that he ought to exert his authority on this issue given that this is a government bill, and given that in other states they have looked at gambling legislation, and we need to look at issues of regulation and the granting of licences as government policy. In the eastern states—

An honourable member interjecting:

The Hon. NICK XENOPHON: Some would say that it is not so much a conscience vote but a lack of conscience vote, and that is not particularly directed to this side of the chamber. I think we need to look at the impact it has had on individuals, the proliferation of machines, and that consideration ought to be given to this issue being government policy. It is not a debate about whether we have a particular form of gambling in this state but whether further licences are granted.

The Hon. R.I. Lucas: Unbelievable!

The Hon. NICK XENOPHON: I think what is unbelievable is that so little has been done over the past few years with respect to government policy to minimise the harm caused by gambling.

The Hon. L.H. Davis interjecting:

The Hon. NICK XENOPHON: No. But, in relation to this bill, I note that only two members of the opposition and one member of the government voted for the freeze bill on two separate occasions. I can only urge members to reconsid-

er this issue, consider it on its merits and support a freeze. I urge members to deal with this bill expeditiously.

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

STATUTORY AUTHORITIES REVIEW COMMITTEE: SOUTH AUSTRALIAN COMMUNITY HOUSING AUTHORITY

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

That the report of the committee on an inquiry into the operation of the South Australian Community Housing Authority be noted.

The Statutory Authorities Review Committee, over a period of some 2½ years, has been examining the operations of the South Australian Community Housing Authority, better known by the acronym SACHA. This report has taken longer to be published than perhaps was originally anticipated because the committee got waylaid by an issue concerning the West Terrace cemetery. Three very detailed reports on the West Terrace cemetery had the salutary effect of the minister's intervening to ensure that a proper management plan was prepared for the very important and historic West Terrace cemetery. So, the digression was very satisfactory and worthwhile.

The recommendations and committee comments, with one exception, again are unanimous. The committee recognises the importance of community housing. There are now nearly 3 000 houses under management in the community housing sector, roughly equally divided between housing associations and cooperative housing. In the past five years, it has been government policy to give priority to housing associations. Housing associations invariably have been managed by not for profit organisations such as the Salvation Army, the Lutheran Church and other community groups, and they are managed by volunteers and paid staff on behalf of the tenants. The other strand of community housing is styled as housing cooperatives, where the tenants themselves manage the housing operation.

In the early 1980s, rental cooperatives came into vogue and, by the end of the 1980s, it was then Labor government policy to promote housing cooperatives. There were some claims which perhaps were excessively optimistic about the potential that existed for cooperative housing, centred around the fact that it would develop self-esteem, build confidence, increase employment opportunities and income, and generate a rapid turnover of housing cooperative tenants which would see housing cooperatives mushroom in size. It was a commendable objective which I suspect fell short in practice.

The committee reflected on some of the earlier excesses of the housing cooperatives with people who started up housing cooperatives who were not there on the basis of need but rather on the basis of mutual interest—for example, a common employment interest. The excesses in two or three of these housing cooperatives are a matter of public record. The Merz cooperative in the early days had housing floor areas dramatically greater than that of the average public housing, and concern was expressed by the Housing Trust about some of these excesses.

However, it is fair to say that the Housing Cooperatives bill, introduced in 1990-91 with accompanying regulations, brought some structure and order to the housing cooperative movement. Housing associations continued to be managed by the Housing Trust until 1995. The South Australian Housing Cooperative Authority was then renamed the South Australian Community Housing Authority to reflect the fact that it took in housing associations. For the past five years community housing with its two strands of cooperative housing and association housing has been managed by SACHA.

The growth in the number of housing association dwellings in the past five years has been dramatic, reflecting the emphasis on this form of community housing. The number of association dwellings has more than doubled in the four year period from 1 July 1996 to 30 June 2000 from 698 to 1 439, whereas the number of cooperative housing dwellings has increased from 1 352 to 1 532, a rise of little more than 13 per cent. There are 3 000 houses under management in the community housing sector, but this figure is much lower than the 53 000 properties managed by the Housing Trust as at 30 June 2000.

The committee recognises that there have been dramatic changes in public and community housing over the last decade. Commonwealth rental assistance has enabled people on low incomes to have private sector rental accommodation with rental assistance from the public purse. There has also been the trend towards joint venture partnerships involving the public and private sectors. In New South Wales, the Labor government has been especially aggressive in encouraging public-private sector partnerships. That has been a trend also in South Australia.

The South Australian Housing Trust has been a monument to public housing nationally. It was established in 1936 and, in the immediate post World War II years, it built over 3 000 houses a year to cope with the extraordinary demand for housing that was associated with the migration boom. In the period 1946 to 1961, South Australia's migration take of the national pool of migration was well above its share on a population basis. In fact, population growth in South Australia in those years, 1946 to 1961, exceeded the national average. That has not been the case in the last two or three decades.

The South Australian Housing Trust built up an enormous stock of housing in areas such as Elizabeth, Whyalla and in many regional centres and, even though the Housing Trust's building or acquisition program has not been very intensive in recent years, 9.5 per cent of all housing in South Australia is still held as public housing, whereas only 5.8 per cent of national housing stock is public housing. We have almost twice the national average.

The Hon. T.G. Roberts: New dwellings have slowed down now, though.

The Hon. L.H. DAVIS: There has been a much greater increase in the number of dwellings being built by community housing associations. In the year 1998-99, 134 new dwellings were created for housing associations in this state. The committee was interested to examine the claims made about cooperative housing in 1991 when the cooperative housing legislation was first introduced. A select committee was established in the House of Assembly and the South Australian Centre for Economic Studies was commissioned at that time to look at the claims about cooperative housing.

The Hon. T.G. Roberts: Some of the members of the committee got a pleasant surprise.

The Hon. L.H. DAVIS: In 1991?

The Hon. T.G. Roberts: Yes.

The Hon. L.H. DAVIS: I am not quite sure what the Hon. Terry Roberts is saying there; I will let that pass by. We thought as a committee that it would be constructive to invite

the South Australian Centre for Economic Studies to review the last decade and undertake a cost benefit analysis of cooperative housing, because it might be useful on a nationwide basis to measure the economic benefits, as well as the social benefits, that flow from cooperative housing.

One of the problems that the Centre for Economic Studies reported in September 2000 to the committee was that no record keeping took place over the past decade, so comparative statistical analysis was impossible. The committee discovered that SACHA had no idea of the income levels of over 10 per cent of tenants in cooperative housing, which the committee regarded as unsatisfactory. That was in sharp contrast to Victoria, where all tenants are required to submit income levels. We have noted that, in recent times, SACHA has moved to tighten its requirements regarding disclosure of income levels of those paying ceiling rent. No measure was kept of tenant movements over the past decade, either.

As a result, there was a limited ability to make any significant comparison over the last decade of what cooperative housing had achieved in economic and financial terms. However, the centre concluded that the social benefits to tenants in cooperative housing were real and that the voluntary input of labour by cooperatives to the maintenance and administration of cooperative dwellings reduced the financial cost to government.

The year 2000 report by the Centre for Economic Studies and an earlier inquiry by SACHA into the costs of cooperative housing in 1998 showed slight variations in their bottom line figures, but that seemed to indicate that there was not a great difference between the cost to government of maintaining cooperative dwellings and Housing Trust dwellings. Association housing tended to be somewhat higher, which was not surprising, because housing associations cater much more for disadvantaged and disabled tenants who require more specialised and intensive services.

The committee noted that in March 1999 the Minister for Human Services (Hon. Dean Brown) announced a significant change in housing policy, namely, that priority would be given to people in greatest need across all three strands of housing—Housing Trust housing, cooperative housing or association housing. The department established four categories of priority common to those three strands of housing, and, for the first time, tenure was subject to review after three years if a tenant's financial circumstances improved beyond a certain level. That changed the nature of the discussion that the committee was having. We recognised that there was now much more of a blurring between public housing and community housing, given that all of them were driven by a prerequisite to look at each case on a needs basis.

The committee took evidence from SACHA, the Housing Trust, the major housing associations, the cooperatives, and the peak bodies representing those groups. We also provided a detailed questionnaire, which was sent to 30 housing associations and 92 cooperatives, and that had a good response, particularly from the housing associations. We noted some common gripes about the role of SACHA. The six large housing associations, in particular, believed that there was a lack of transparency in the transfer of housing stock from SACHA to themselves. They believed that sometimes there were undue delays and there were concerns about the accounting processes. There was a slowness by SACHA to put in place a common computing system, which meant that some housing associations were using different software. That is now being addressed.

One of the problems that was beyond anyone's control was that much of the stock that SACHA was receiving from the Housing Trust was old, inappropriate and tired, and did not reflect the fact that family sizes are smaller and that lifestyles are different. The committee recognised that there has been an overall improvement in the quality of stock being offered by SACHA to housing associations, because it is now upgrading property before inviting housing associations to tender for it.

The committee was made aware of the fact that many of the tenants in community housing and, indeed, in public housing require a network of services in health and welfare programs. Because housing, welfare and health are all under the one umbrella of the Department of Human Services, it has improved the network of support services and the safety net that can be drawn under people who are disadvantaged or disabled and who require support from other government services.

The committee recognised that there was perhaps a much closer working relationship between the Housing Trust and SACHA than there had been in the past. It recognised that the old stereotyping of public housing, of creating long streets of housing all the same, was a relic of the 1950s and 1960s and that now the trend is very much to locate public housing or community housing stock amongst private sector housing. There is very strong evidence from New South Wales, in particular, that more initiatives could be undertaken involving the private sector in apartment living in the Adelaide CBD and metropolitan area for community housing.

The committee was particularly impressed with the quality and professionalism of the leadership of the large housing associations. Obviously, the government has recognised the benefits that flow from having larger housing associations which can achieve some economies of scale. The government with SACHA's support, has initiated a plan to grow the larger housing associations by increasing the number of dwellings under their control.

The committee made a number of recommendations. The central one, given the fact that there was a coming together of community and public housing; and given that the Housing Trust now is increasingly entering into joint venture arrangements and housing projects, sometimes with housing associations, that there was at least merit in examining the possibility of folding SACHA back into the Housing Trust. The committee recommended that the government should review the need for a separate authority to administer community housing.

That was a unanimous view of the committee, although I should put on record that the Hon. Bob Sneath reserved his position on the question as to whether an office of community housing within the Housing Trust should be established to ensure that the special requirements of the community housing program are properly serviced. We believed it is appropriate for the government to examine that recommendation because we felt that there could be some savings achieved administratively and financially, which could be applied directly to the Community Housing Association.

We believed also that it would remove at least one layer of bureaucracy, given that there is a fairly cumbersome process whereby the Housing Trust has to make a decision on what it will do with its housing stock. The Trust might maintain it, refurbish it or sell it on its own account, or it may decide to transfer it to SACHA, which in turn transfers it to community housing. So, this chain takes place that stretches out in time and bureaucracy, which perhaps could be

eliminated if there was an office of community housing established within the Housing Trust.

The Hon. Diana Laidlaw: Like a one-stop shop.

The Hon. L.H. DAVIS: That is right. The committee recognised that community housing is specialist and recognised there was some intensity required in terms of the support from government. It recognised, as I have said already, the extraordinary professionalism, dedication and commitment of the housing associations, which range from women's shelters, the northern suburbs group and MACHA to the Lutheran Church's involvement. Some outstanding evidence was given by the housing associations.

The committee also recognised that the SACHA board, as presently comprised, does not reflect properly the fact that the housing association numbers are almost the same as those of cooperatives. At present, cooperatives have two members on the SACHA board but housing associations have only one, and that one is not directly nominated, as is the case with the two from the housing cooperatives. The housing association actually has to submit three names and the minister picks one, which is a bit uneven in terms of the balance between housing cooperatives and housing associations.

So, we have suggested that housing associations and cooperatives should nominate two members each to the SACHA board for approval by the minister.

We are also conscious that there could be some additional community housing programs in regional and rural South Australia, which tend to be under weight in the number of community houses.

We also recommended, as I noted, that there is perhaps the possibility of more joint initiatives with the private sector to increase opportunities for access to community housing. The committee overall believed that community housing was a very important and developing initiative in providing housing for people in need. It was a program that seemed to work well, where charitable groups may provide land or buildings and the government may provide money, and this joint venture arrangement ensures that the community gets very good bangs for the bucks that are put in.

It is a very efficient way of providing housing support for disabled and disadvantaged people. I believe that this report, which is of some detail and some weight (comprising 185 pages), will be a useful addition to this subject and will have interest not only in South Australia but, I believe, in all other states and territories. I would like to thank the members of the committee for their diligence.

That, of course, includes the Hon. Carmel Zollo, who was with the committee for most of the deliberations into this subject; the Hon. John Dawkins; the Hon. Bob Sneath, who has recently joined the committee; the Hon. Trevor Crothers; and the Hon. Julian Stefani, who has had a longstanding interest in this subject. In conclusion, I would like to thank the staff of the Statutory Authorities Review Committee for their diligence and professionalism in preparing this report, which was an intensive effort over a long time. The research officer for most of the inquiry was Helen Hele; her successor was Gareth Hickery; and, throughout the inquiry, the secretary to the committee, Kristina Willis-Arnold, also performed in a most commendable fashion.

The Hon. R.K. SNEATH secured the adjournment of the debate.

SELECT COMMITTEE ON OUTSOURCING OF STATE GOVERNMENT SERVICES

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

That the time for bringing up the report of the committee be extended until Wednesday 14 March 2001.

Motion carried.

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

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

That the time for bringing up the report of the committee be extended until Wednesday 14 March 2001.

Motion carried.

SELECT COMMITTEE ON INTERNET AND INTERACTIVE HOME GAMBLING AND GAMBLING BY OTHER MEANS OF TELECOMMUNICATION IN SOUTH AUSTRALIA

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

That the time for bringing up the report of the committee be extended until Wednesday 14 March 2001.

Motion carried.

SELECT COMMITTEE ON THE FUTURE OF THE QUEEN ELIZABETH HOSPITAL

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

That the time for bringing up the report of the committee be extended until Wednesday 14 March 2001.

Motion carried.

BOTANIC GARDENS AND STATE HERBARIUM

Adjourned debate on motion of Hon. Ian Gilfillan:

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.

(Continued from 17 November. Page 591.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The government does not support the motion before us, which seeks to disallow regulations under the Botanic Gardens and State Herbarium Act 1978 concerning admission charges to the International Rose Garden. The recently opened International Rose Garden is a display of world standing and requires intensive resource inputs to maintain it at that level. I understand that the annual operating cost is $290 000. It is the intention of the government, as recommended by the Botanic Gardens Board, that the revenue raised from these admission charges be used to offset the operating costs of the rose garden.

I highlight that the Botanic Gardens act provides for regulations for charges. Specifically, the Botanic Gardens and State Herbarium (General) Regulations 1993 contain a schedule of charges for admission to the Bicentennial Conservatory and other services provided by the Adelaide Botanic Gardens. So, the regulations that we have before us are simply an extension of a practice that has been allowed over many years.

The International Rose Garden, which was opened by the Premier on 19 October this year, is very different from all other rose displays in Adelaide, whether they be on parklands

or elsewhere across the city, which are nowhere near the scale or offer the variety of the International Rose Garden. The garden offers 7 500 plants and 550 varieties of roses. It is big, labour intensive and costly to operate. For those people who do not wish to visit the International Rose Garden, we are well aware that our wonderful city offers many rose displays where there are no entry charges, including the Mount Lofty Botanic Gardens, the Rymill Gardens, the south parklands—all over the place.

The redevelopment of the Hackney Precinct, including the International Rose Garden, has resulted in the return of parkland status to 5.46 hectares of land. This land was alienated many years ago, first as a tram barn and later as a bus depot. Whilst it may seem inconsistent or retrograde to charge the public for entry to what is a section of the parklands, there are many examples of existing events and facilities in the parklands for which over time charges have been applied.

The Hon. Sandra Kanck: That does not justify it.

The Hon. DIANA LAIDLAW: I am not arguing that it justifies it: I am just speaking in terms of consistency and the fact that this is the case. A number of speakers to this motion have highlighted such events and facilities. The fees have been deliberately set at a low level to ensure that patrons are not discouraged from entering. The fees are $3 per adult, $1.50 per child or concession card holder, $7 for a family, and $2 per adult in a group tour.

There has been some criticism of the fencing. I believe that simply reflects the newness of the structure. The fencing is of the same style as the existing northern boundary fencing of the Adelaide Botanic Gardens. The new fencing will mellow over time and relatively quickly. Climbing roses are already softening its appearance at many points.

The government has introduced these regulations for the charging of fees to offset the operating costs of the International Rose Garden. The government opposes the disallowance motion moved by the Hon. Ian Gilfillan.

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

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: ANNUAL REPORT

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

That the report be noted.

(Continued from 17 November. Page 566.)

The Hon. J.S.L. DAWKINS: I will be brief in thanking those members who have spoken to the motion and covered the large number of activities undertaken by the committee during 1999-2000. I commend the motion to the Council.

Motion carried.

BOTANIC GARDENS AND STATE HERBARIUM

Adjourned debate on motion of Hon. Ian Gilfillan (resumed on motion).

The Hon. T.G. ROBERTS: I indicate that we will not support the Democrats' disallowance motion in relation to the Botanic Gardens State Herbarium Act 1978. Varying opinions were expressed within caucus in relation to this matter, and those views reflected those you would find in the community about the alienation of parklands and a form of payment for entering what would be regarded as parklands, for the enjoyment of all South Australians. Unfortunately, the arguments, discussions and debate over the years in relation to the parklands have been tainted, but not because of the incursions of public obstructions that have occurred in the parklands. Some have occurred for enjoyment, some for sporting and recreational reasons and some for educational and health reasons; and car parks, and so on have also been built. The argument is not as clear-cut as the honourable member might indicate.

There is some sympathy for the view that all parklands should be open to the public at all times, free and unfettered; but, unfortunately, that is not the case with large sections of our parklands. Obviously the honourable member feels very strongly about any incursions into the publicly owned parklands, and certainly there is a lot of sympathy for that position. Regardless of whether or not you believe it is appropriate for the government to build a herbarium, a rose garden or a wine centre and whether or not you support those concepts, unfortunately, when government makes decisions to go ahead with what would be regarded as a place for public enjoyment and entertainment, the state is within its rights to try to recoup some of the expenditure that it has outlaid on infrastructure in those areas.

If you go to other countries you see that many parklands are alienated for recreational, pleasure and other reasons. In many cases as a tourist or visitor you are constantly called upon to make donations or fixed charges for the pleasure of using parklands in their various forms. Some countries have certainly made an art form of fleecing tourists of every potential dollar they have in their pockets and wallets. South Australia has not gone to that extreme. We have areas in our parklands that can be visited and recreational use made of them for a nominal fee, such as for the rental of cricket grounds, basketball and netball courts or such places as a formalised herbarium, rose garden and wine centre.

I can remember one visit I made to a park in north London called the Alexander Gardens that had a set-up that was used for learning to snow ski. That had a huge charge on it. In fact, the charge was so exorbitant that on the meagre pittance that I was allowing myself as a working tourist at the time I could not afford to use the facilities.

The ways in which different states and countries use their parklands and recoup some of the costs of infrastructure are universal. I do not think we are out of step with the level and rate of alienation of parklands and the fact that we are not rehabilitating parklands. I would say that subsequent governments have been proven guilty of alienation, particularly regarding the Victoria Park racecourse, which in itself is not a pure use of parklands but was set up for a specific purpose. The Victoria Park racing venue is probably one of the best race venues I have visited anywhere in the world that is as close as it is to a metropolitan centre, but even now there is an incursion upon an incursion. We have the race track and buildings which are almost permanent fixtures, and people are charged to enter the public arenas in a specific area of the parklands to watch the programs that are set up. Whether it be motor car racing, show jumping or any other feature at all, a charge is placed on people using public grounds in the alienation process, because governments have deemed that special projects will take place within temporary structures, which in many cases turn to almost permanent. That is where the dangers lie.

In this case the principles are slightly different in that it is a permanent exhibition, but the Labor Party and I do not see anything untoward in charging people a fee to see what would be regarded as good value for money. I am told ad nauseam by the Hon. Mr Davis that everyone in the state should visit it regularly. If national and international tourists visit it, that is one way of getting $200 000 per annum (which is one of the figures I have seen) back into the state coffers to help to administer it and to pay off some of the expense of setting up such a venture.

If we were in government, I am not sure whether the same decision would have applied in setting up a rose garden in such a place. However, we are not in government and it has gone ahead, and as I say we have no objection to the government recouping some of the outlay particularly from international and interstate tourists. I think there is provision for some concessions for pensioners; and I am not sure whether there are concessions for school children and groups, but I am sure the minister will tell me that.

The Hon. R.R. ROBERTS: As a member of the Legislative Review Committee, I was made aware of these regulations when they were introduced. As someone who has been here for over a decade now, like the Hon. Ian Gilfillan I have become increasingly concerned at the number of small parcels of public land from our parklands that are being designated as areas where commercial activities can take place.

This proposal is a classic example of where we were promised a rose garden—but what we were not promised was that it would be in the Botanic Gardens, which you can currently enter freely at no cost. The government took our parklands and used my taxpayer's money to establish a rose garden, and now it wants me to pay to go on to my land and to look at my roses bought with my money. This is double jeopardy.

This is a part of an ongoing trend. We saw the situation at Adelaide Oval where the land was given to a commercial operator to establish a gym. We are losing little bits and pieces of the parklands. The next thing will be the wine centre. Until now I had not been advised that I would be required to pay to go into the wine centre. Now we have the conservatorium and the rose garden, and obviously the next one will be the wine centre because someone has to water those grapes, and it looks like it will be me again.

The Hon. Terry Roberts has outlined the opposition's view. This decision was taken by the government, and it implemented it. It wants to have its hands on the economic levers of the state and I suppose, at the end of the day, it is its decision where it raises its tax income. It is a pity that we have to raise it not only from Adelaide families but also from country people who often come to Adelaide. When I was a youngster one of the highlights of an Adelaide visit was a trip to the Botanic Gardens because it was free and interesting, and it was something that gave you pride in your state.

In my view this is a backward step, but it is a step that the government has taken freely. It is its decision to tax the ratepayers and constituents of South Australia to pay money to walk into their garden to look at their roses. I shall be voting against this disallowance motion.

The Hon. IAN GILFILLAN: I thank members for their contributions, particularly the last speaker who I think very succinctly put his verbal finger on the issue. I am aware that forces beyond his control mean that he will not be sitting on the same side of the chamber as my colleagues and I will be when voting. It is important to look at what we have been debating in regard to charging admission. The issue is not so much whether an authority is entitled to charge admission to an enterprise that has been constructed and whether the government, with its electoral mandate, has the power to make that decision, because under normal circumstances those issues would not be challenged. But these are not normal circumstances—although sadly they are more and more becoming normal circumstances in that the parklands has lost the reverence and integrity that it has had, with varying degrees, over the past 160 or 170 years that it has existed.

When we talk about comparisons with other countries or compare it with the situation of paying for entry into other facilities, we lose sight of the fact that we only have one Adelaide parklands and that it is not growing. It is not fertile and it has not been mated with anything, and there are no other Adelaide parklands offspring areas that are enhancing or replacing the areas that have been lost. It is so transparent that I think that most people have forgotten the significance of what a travesty it is when we willingly lose the free access of members of the public to any square metre of the parklands.

The basic principle of having the parklands is that it is freely available to the public to move onto and enjoy. Whether or not it was a good or a poor decision to site a rose garden there is not the debate: the debate is about the fence. The Adelaide City Council, to its credit, has strenuously enforced, where it can, that there will not be any prohibitive fencing of any area of the parklands, yet here we have a most significant fence, the purpose of which is for one thing, because it does not enhance the roses or the rose garden: it is to keep the ordinary public—

An honourable member: It's to keep the aphids out.

The Hon. IAN GILFILLAN: To keep the aphids out, and possibly dogs as well. Its prime purpose is to keep out any who do not part with the $3.50 fee, or whatever the current charge is, regardless of concessions. It is a pathetic qualification to say that just because—

An honourable member: It's a furphy.

The Hon. IAN GILFILLAN: It's a furphy; it's a very appropriate furphy. It disturbs me—in fact, it saddens me—that we are not, as a parliament, grasping the sacred nature of the parklands, revering it and treating it with integrity. In my view it is not too much of an analogy to compare it with any of the cathedrals in our city. If one were to say that a portion of the cathedral will be fenced off and that only paying members of the public will be able to worship in that part of the cathedral—

The Hon. T.G. Roberts interjecting:

The Hon. IAN GILFILLAN: The Hon. Terry Roberts has a penchant for interjecting in most disruptive ways, and I would ask him as a good Catholic to keep his mouth shut. The fact remains that until we treat the parklands with the same reverence that we treat dedicated holy ground, this constant erosion, alienation and bastardisation of parklands will continue to the point where it will be of very little significance for anyone living in Adelaide or coming from overseas or interstate to visit.

I know first-hand that tourist operators are overwhelmed by the admiration and praise that interstate and overseas visitors give when they are driven through and around the parklands. In some cases these tourists find it the most significant feature that they have found in Australia—not just

Adelaide, South Australia, but in Australia—that a modern city has been able to retain this unique belt of parklands. Does not that mean anything to members in this chamber or to those who are making the big plans, the master plans, for the way in which so-called development will take place in Adelaide?

The Hon. Sandra Kanck interjecting:

The Hon. IAN GILFILLAN: My colleague says, 'Obviously not.' I do not think it is malicious: it is not a 'Let's get the parklands syndrome.' I do not accuse people of that. It is just that they are blind, that they are dumb to the fact that we have a precious entity that cannot protect itself. It cannot survive unless measures such as this measure of mine are successful, and if it is successful it should result in that fence coming down. The roses can still stay there. We have beautiful rose gardens in Rymill Park which are unfenced and which have free access for anyone who wants to go through them.

The Hon. Sandra Kanck: They've been there for years.

The Hon. IAN GILFILLAN: They have been there for years, they will remain there for years, and they will stand as an indictment to the fact that commercial or financial priorities have warped the judgment of those who have authorised the mishandling of the land on which the Hackney bus depot stood and which was promised to be returned to parklands. So, it is with great sadness that I predict that this motion will not succeed. However, because I am a perpetual optimist on this issue, I hope that by steadily beating on this door of insensitivity the decision makers in this parliament, this government, and the Adelaide City Council will realise that we have to be proactive to protect the parklands.

When I hear the argument that there is unused land on the north-side of North Terrace, which has had some STA use, and that the promoters of the Investigator Science Centre say that it is wasted land and it would be a great enhancement if the Investigator Science Centre was established there, to a certain extent, I understand the sophistry and the illogicality of people who genuinely do not understand what parklands are and what their potential is.

Some areas of the parklands are not properly and fully 'developed'; they are empty and may look unattractive but they are still able to be returned, enhanced and used as parklands. Once there are buildings, or it is fenced off with permanent structures, it is gone. The return rate of alienated parklands is minimal.

The Hon. L.H. Davis: What about the Santos Athletics Stadium—is that on parklands?

The Hon. IAN GILFILLAN: No, it is not. People who made those decisions—

The Hon. L.H. Davis interjecting:

The Hon. IAN GILFILLAN: I am extremely grateful—

The Hon. L.H. Davis interjecting:

The Hon. IAN GILFILLAN: The Hon. Legh Davis would be wise to rest with one intelligent interjection and forget the rest. One intelligent interjection is so unique it has actually stopped me in my tracks. The honourable member asked whether the Santos Athletics Stadium is on parklands—I think he rather foolishly believes it is.

The beauty of the decision with both the basketball stadium and the Santos Athletics Stadium is that people realise that there are areas approximate to Adelaide that can be used for these developments. There is an alternative and everything does not have to be dumped on the parklands. Another glimmer of hope is that there is pressure for another swimming centre, and there is some enthusiasm for it to be west of Adelaide. The Aquatic Centre is squatting on the parklands. It started off as a relatively small swimming centre, but there was an argument that it was not making enough money and the car parking area was not big enough. What has happened? It has stretched out. There is hope that we will get some alienated parklands returned. Let us deal with one thing—

Members interjecting:

The Hon. IAN GILFILLAN: Mr Davis should rest on the one interjection that has rocketed him to stardom. I would not interfere with that record if I were the Hon. Legh Davis. He may actually have some credit—

Members interjecting:

The PRESIDENT: Order, the Hon. Legh Davis and the Hon. Ron Roberts!

The Hon. IAN GILFILLAN: It is a pretty incessant flow. If it could be turned into water we would have a free flow of water for the parklands for the next 100 years! But that is not likely to happen. I do not intend to continue my comments. I think honourable members realise that—

An honourable member: Don't be scared off.

The Hon. IAN GILFILLAN: Who is doing the goading? Apart from the good natured aspect of this, I am sure it is apparent that this is not just a gimmick of mine; it is an expression of concern that we must turn around our attitude to the parklands. I have confidence that everyone in this place—and a lot of others who have not been prodded to think about it—will revise their attitude and have a positive and proactive attitude to the parklands. It cannot be based on cost recovery only, as the Hon. Terry Roberts has said. If the council or the government want to provide some sort of facility for people to use on the parklands, it cannot be on the basis of cost recovery.

The Hon. T.G. Roberts interjecting:

The Hon. IAN GILFILLAN: I beg to disagree. I do urge—

The PRESIDENT: The Hon. Mr Gilfillan has nearly concluded his remarks.

The Hon. IAN GILFILLAN: I was, but I just wanted to give the Hon. Legh Davis another chance to spoil his record with interjections.

The PRESIDENT: Order!

The Hon. L.H. Davis: Tell us about Mike Elliott swimming at Memorial Drive.

The Hon. IAN GILFILLAN: Even if he was swimming at the Aquatic Centre he would still be swimming on parklands. Unless you are prepared to make sure that swimming facilities are provided off the parklands—

Members interjecting:

The PRESIDENT: Order! Honourable members have had a chance to have their say; this is the end of the debate.

The Hon. IAN GILFILLAN: The interjection was relatively insignificant and I have given it only passing comment. With some disappointment, I acknowledge that the motion is not likely to get up but I urge honourable members to have a last minute change of mind and support it.

The Council divided on the motion:

AYES (3)

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

NOES (16)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T.	Holloway, P.
Laidlaw, D. V. (teller)	Lawson, R. D.
Lucas, R. I.	Pickles, C. A.

NOES (cont.)

Redford, A. J.	Roberts, R. R.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Xenophon, N.	Zollo, C.

Majority of 13 for the noes.

Motion thus negatived.

[Sitting suspended from 6 to 7.45 p.m.]

SELECT COMMITTEE ON INTERNET AND INTERACTIVE HOME GAMBLING AND GAMBLING BY OTHER MEANS OF TELECOMMUNICATION IN SOUTH AUSTRALIA

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

That the interim report of the select committee be noted.

(Continued from 8 November. Page 323.)

The Hon. R.I. LUCAS (Treasurer): I thank members for their contribution to the debate, and I do not intend to repeat the arguments. When first we started this with this matter, all members of the committee had strongly held views that were in various degrees of contradiction with each other. When we finished the committee, we remained in much the same position, having reinforced our original positions, but nevertheless we were much better informed about the merit of our first position, with lots of bits of evidence to support our individual prejudices, biases or particular points of view.

I hope that at some stage sooner rather than later we will be able to have a substantive debate on the key piece of legislation, not only in this state but possibly even nationally, in relation to a possible regulatory framework for internet or on-line gambling.

Motion carried.

LEGISLATIVE REVIEW COMMITTEE: FREEDOM OF INFORMATION

Adjourned debate on motion of Hon. A.J. Redford:

That the report of the committee concerning the Freedom of Information Act be noted.

(Continued from 25 October. Page 245.)

The Hon. A.J. REDFORD: In concluding the debate, I thank everyone for their well-informed contributions and I look forward to the government response to the recommendations made by the Legislative Review Committee. I know that, if anyone has an interest in it, the minister will be receptive to all submissions and suggestions in a constructive way.

Motion carried.

CONTROLLED SUBSTANCES ACT

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

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

(Continued from 16 November. Page 564.)

The Hon. NICK XENOPHON: On the last occasion I voted for disallowance of these regulations on the basis that a number of concerns were raised in this chamber with respect to the three-plant rule. There was a suggestion that reducing the limit from 10 plants to three plants could well encourage young people, in particular, to go to drug dealers and be exposed to more dangerous drugs. Since that time I have had a number of representations from parents who have had difficulty with children as a result of marijuana use. I have listened to the debate with considerable interest and my view is that I will not support the motion on this occasion.

Having said that, I think that there has been a fair degree of politicisation of this issue on the part of the government in the sense that this should be the be-all and end-all of any anti-drugs strategy. It is a very difficult issue and this chamber ought to be grateful for the work that the Hon. Mike Elliott has done on this issue. I am not necessarily endorsing all that he is saying, but he has brought forward an issue that is of significant community concern, and in any debate it seems that existing policies are not working as they should.

The AMA issued a report last week that indicated that the number of heroin addicts in Australia has doubled compared with 10 years ago. There are real issues of concern with respect to cannabis use and it ought to be acknowledged that the Hon. Mike Elliott's concern has always been one of harm minimisation. How we get to that goal is an area of debate, but we should be grateful for the fact that he has raised this issue in a persistent manner and in a manner that lends itself to a sensible debate with a great degree of substance.

A number of factors have swayed me not to support the motion on this occasion. First, it seems that even one or two hydroponically grown plants yield a very significant amount of cannabis. In the days when there was a 10-plant limit, hydroponics were not as established as they are today. The Hon. Carolyn Pickles has made the point in various media interviews that she acknowledges that there is a distinction between hydroponically grown plants and those that are not. That issue should be subject to continued monitoring. The government has played a fair degree of politics on this issue. Many members would have preferred a five-plant limit but, given the nature of a disallowance motion, an amendment is not possible. We are left with a dilemma. The drugs issue is of increasing community concern.

I called for a drugs summit based on the New South Wales drugs summit which was held last year and which I thought was constructive in many respects. The report of that summit indicated that it allowed a fair degree of community debate, although it seems that anti-cannabis campaigners such as Dr John Anderson were not given an opportunity to sufficiently express their views. If we are to have a forum like that, we ought to allow wide scope to a whole range of views on this issue.

The Hon. M.J. Elliott interjecting:

The Hon. NICK XENOPHON: The Hon. Mike Elliott says that no-one can accuse the NSW Premier of being pro-drugs. I think that Premier Carr has shown a great degree of leadership on this issue and, on balance, the forum was very constructive. I also think that many of the things said by people such as Dr John Anderson, whom I had the opportunity to listen to several weeks ago, members of both sides of this debate would agree with, in terms of positive role models for young children, discouraging cannabis use, community education and school education programs.

They are all things that I think would find common ground. It is very unfortunate that the police minister (Hon. Robert Brokenshire) took exception to my calls for a drugs summit and had to resort to personal abuse. However, I also think that he is sincerely concerned about this issue: it is just unfortunate that it had to be politicised so heavily. I do not

think that this is the last time we will be dealing with a motion like this. Certainly, it will not be the last time that we will be debating these issues. I call on the government to have a drugs summit on this issue, to look at all the views, look at the evidence and have a full debate.

On this occasion I will not support the motion, but I look forward to ongoing constructive debate on this issue. Let us hope that some of the statistics we heard last week from the AMA (of increasing levels of drug use) are something of which we can at least begin to reverse the trend.

The Hon. A.J. REDFORD: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. A.J. REDFORD: I will be very brief. I endorse the comments made by the Hon. Nick Xenophon and also endorse what he said about some people playing politics with this issue. My position is much the same as his. I was not going to speak until the Hon. Terry Cameron had, but I think that, given that some people might seek to delay the inevitable vote on this, I ought to make my position clear, for what might be obvious reasons to those involved in the political process.

On the previous occasion I said that I would vote with this motion, first, to enable continued debate and, secondly, to ensure that the questions raised, particularly by the Hon. Terry Cameron, were answered by the government. The government has gone to some trouble to address the issues raised by the honourable member earlier this year and, for that, I am grateful. In the circumstances, given that the government has clearly addressed the issue, it is my view that the motion ought to be voted down.

For those avid *Hansard* readers who do not put all their speeches together in one hit, I assure them that the numbers are such that this motion will inevitably fail, given that my vote will be against it, as will be those of the Hon. Nick Xenophon and the Hon. Bob Sneath. That will be a three vote turnaround on the last occasion, which was 11-10. That is my position, for those who might seek to represent my views on this issue.

It has been disappointing to see that in some circles there were those who chose to misrepresent my position. On the previous occasion my position was to uphold the principles that we all should share in this place, that every member who asks a question is entitled to an answer, or every member who raises an issue is entitled to have that issue addressed. That was why I voted in that way on the last occasion. I would hope that those who deal with this issue in the future will not seek to misrepresent what people say or what positions they hold in the future.

The Hon. Carolyn Pickles interjecting:

The Hon. A.J. REDFORD: No, you didn't. I didn't say you did. It was others more inclined to sit on my side of politics than yours, with the greatest of respect, and there were some in the media who sought to misrepresent—

The Hon. Carolyn Pickles interjecting:

The Hon. A.J. REDFORD: I would like to think I do it on a regular basis, but it is in the eye of the beholder. So, that is the position. I would hope that in the future we continue to take principled positions on issues such as this. I would be extraordinarily disappointed if this state went down the path that New South Wales, in particular, seems to be going down in dealing with issues such as this, that is, making them electoral issues and having some sort of auction in relation to them.

It diminishes the debate and diminishes the importance of the issue. I will not name them, but there are two or three people on both sides of politics who are inclined to do that, particularly late at night and on talkback radio. I have to say that I despise that sort of conduct. I was pretty severely criticised and defamed by that intellectual doyen Bob Francis, who has never read anything that has been said in this place but who has an opinion on everything that is said in this place and seems to have a penchant for coming to conclusions in the absence of any information, which I must say might be easier for him in his case, given some of the intellectual comments that he makes on a number of other issues.

With that, I can only urge all members to respect each other's point of view, to not politicise this very difficult issue, and to work together to achieve some outcomes. I endorse the Hon. Nick Xenophon's comments in that respect. I disagree with some of the things that the Hon. Michael Elliott says, but I acknowledge that he holds those views sincerely and has put them forward with a great deal of thought. He deserves to have his views discussed and debated without some rancorous political auction or outrageous statements by ignorant talk-show hosts.

The Hon. T.G. CAMERON: I will commence my speech and seek leave to conclude my remarks later.

Leave granted; debate adjourned.

STATUTES AMENDMENT (DUST-RELATED CONDITIONS) BILL

Adjourned debate on second reading.

(Continued from 8 November. Page 337.)

The Hon. R.R. ROBERTS: I rise to support the proposition put forward by the Hon. Nick Xenophon. This comes after a long and sad history of people contracting dust related diseases as a consequence of working with asbestos and asbestos related products. If a claimant who suffers from mesothelioma or another asbestos related disease starts an action for compensation but unfortunately dies prior to the—

The PRESIDENT: Order! The Leader of the Opposition will resume her seat while one of her colleagues is speaking. The honourable member who is on his feet has the call.

The Hon. R.R. ROBERTS: If someone, having taken action in the courts, dies before that matter is concluded, in the past that action has died with that person. The survival of causes of action aspect of this bill seeks to allow those matters to go forward. I refer to the famous case in New South Wales which was taken to the courts, and a ruling came down which, on the federal scene, makes the operation of this provision much easier, but in South Australia there is still a problem. The matter is further complicated because we have a couple of WorkCover acts under which different conditions apply for different periods. We are talking about a disease which can take 20 to 25 years to manifest itself after the actual exposure occurrs, because the incubation period for a disease such as mesothelioma and asbestosis is often 15 or 20 years.

I had an unfortunate experience with former employees of David Jones who died. I raised those cases in this place and received a response from the minister who said that the time within which a claim could be made had expired. It was fairly obvious that these people had died as a result of an illness caused by their work. However, the time within which

a claim could be made had elapsed and, therefore, they were not able to make a claim.

The Hon. Nick Xenophon is to be congratulated for introducing this bill, but I take this opportunity to pay tribute to the former shadow minister for industrial relations in the other place (Stefani Key) who, as a result of her overseas trip during which she looked at WorkCover and WorkCover related issues, raised this matter for the Labor Party to consider and introduce legislation. To his credit, the Hon. Nick Xenophon, when he decided to move this bill, engaged in consultation with both the Labor Party and the UTLC—I remember attending meetings with the UTLC—and we were all able to reach an agreement that this was a worthwhile proposition.

I am reasonably confident or certainly hopeful that the government will see the benefit of this piece of legislation which will give affected workers who are suffering the ultimate penalty for a workplace illness the right to die with dignity and at least provide their family with some recompense and comfort for the loss of their life through being able to pursue a just amount of compensation in the circumstances of their unfortunate death.

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

CONSTITUTION (PARLIAMENTARY SITTINGS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 November. Page 341.)

The Hon. K.T. GRIFFIN (Attorney-General): The government does not support the bill. With due respect to the Hon. Mr Xenophon, it is a nonsense. He is trying to get a moment in the sun, at least in the media, with something which will not work. The proposition in the bill is just not likely to be at all workable. On 29 March the Hon. Xenophon introduced a private member's bill here to amend section 7 of the Constitution Act, relating to the sitting dates for parliament. That bill sought to prevent lengthy breaks between the sittings of the parliament. In introducing the bill, the Hon. Mr Xenophon pointed to a break of 125 days between the last sitting day of last year and the first sitting day of this year. He argued that a break of approximately 4 months was contrary to the basic principle that the parliament should have essential checks and balances on the executive branch of government. The bill lapsed when parliament was prorogued.

If you go to the United States of America and Canada you will find even longer breaks between sittings of state and provincial legislatures, and they certainly demonstrate that the state parliaments and territory legislatures of Australia are particularly diligent in both their sitting times in full session and their committee work. On 11 October the Hon. Mr Xenophon reintroduced the bill in amended form. That is interesting, because he has changed tack. Now it is a requirement under the bill that the parliament sit for a minimum of 100 days for each year, and it provides a maximum period between parliamentary sessions of 70 days. I am not sure what the Hon. Mr Xenophon will ultimately want. It is shifting sands. It will be interesting to see what the next bill will bring if this one does not get up—as I hope it will not.

The Hon. T.G. Cameron: Make a slight amendment and it will get through.

The Hon. K.T. GRIFFIN: Maybe 69 days instead? My experience in this place suggests that governments and oppositions are generally able to work out satisfactory sitting days. It may not be happiness all around on all occasions, but generally there is at least some measure of agreement about when the parliament should sit. There are always a few grumbles when it sits too often. There are also some criticisms when, even though we have not sat for a period of, say, four months, we find that bills which might have been introduced even four months previously do not get proper attention immediately we resume.

The Hon. Diana Laidlaw refers to the system development bill that was introduced in March, which we have only just dealt with in this chamber, because members were not ready to deal with it. I have had the experience of introducing bills in July which are only just getting off the *Notice Paper*, because people are now prepared to deal with them. Even that break was not long enough to allow people time to do their consultation.

The Hon. R.R. Roberts: It's taking you longer to convince Terry than it used to.

The Hon. K.T. GRIFFIN: No; I am simply stating the facts. Sometimes even four months is not long enough for some people to do their consultation.

The Hon. Diana Laidlaw: Or to make decisions.

The Hon. K.T. GRIFFIN: Yes. I can remember in earlier days when we were in opposition when we were dealing with bills, invariably the pressure was always on us. If the bill was introduced one week, we would be up for a week and then we would have to deal with the bill. Invariably we would deal with it promptly and we would make the decisions. Even in opposition we would make the decisions, and we did not have the resources that the government of the day then had, and even though on occasions the government of the day could not make those decisions.

If one reflects back to the usual sitting periods in the parliament, one recalls that when the budget was introduced in August we would sit for two periods a year. Then when the federal government and all the states and territories moved to introducing budgets before the commencement of their financial year, in May or June, we initially moved to three sitting periods throughout the year. Most people found that they had no sooner finished one part of the session that they were back into the next part, and that sometimes six or seven weeks was not an adequate period of time to follow up on all the committee and constituency work and other activities that are normally accommodated when the parliament is not sitting.

After experimenting with three sittings, with the concurrence of the opposition we decided that there should be two sittings per year. That means that individual sittings are longer, but even then we still cannot get up all the legislation when we want it. The interesting thing is that, when we get towards the end a session, there is usually a mad rush to get the legislation through, but one way or another we still keep up our legislative program, even though it might be somewhat in staccato bursts. A number of factors must to be taken into account in setting parliamentary timetables, such as major events. For example, on occasions we are criticised for sitting through the Festival of Arts.

The Hon. Diana Laidlaw: Never with this government.

The Hon. K.T. GRIFFIN: The Hon. Anne Levy was certainly critical when occasionally we sat during the period of the Festival of Arts. We are criticised by some for sitting through school holidays. I can understand the criticism about

school holidays, because younger members of the parliament have children, and even if they do not go away they have constituency work. It is more convenient to catch up during the period of the school holidays. We have been criticised as a government on those occasions when we have been sitting during school holiday periods. We will continue to sit on some occasions through school holiday period, but we try to avoid those. Conferences and committee activities also go on during the periods when we are not physically in this chamber.

Of course, if members are concerned about when we next sit, there are some remedies if they want to try to take the business out of the government's hands, and that includes dealing with the next day of sitting on the adjournment debate. Fortunately, we do not have much of a disruption in that way, but occasionally we do. There is some opportunity for people to challenge the sitting periods, but I have never seen a great willingness to challenge the government's decisions as to when we will sit when we seek to adjourn.

The Hon. T.G. Roberts: We did it once.

The Hon. K.T. GRIFFIN: I know you did, and I got angry about it, because you took the business out of the government's hands and did not observe the usual traditions.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: I don't get angry very often, do I? So, there are some existing mechanisms if people do want to complain about the length of time between sitting periods. I should also say that the current practice in our state is consistent with that interstate. Even now we are sitting longer than, for example, the Queensland parliament, which got up a couple of weeks ago. It got up for good reason: it wants to avoid parliamentary scrutiny and an investigation is going on at the moment, which is quite fascinating. Other jurisdictions have similar sitting periods.

In New South Wales there was that recent major event—the Olympic Games—at which I think attendance was mandatory for most members of the New South Wales government, and parliamentary sittings were suspended during it and in many of the weeks leading up to it and subsequently. In New South Wales I think that the lower house had a break of 138 days between sittings over the most recent Christmas break; and the upper house had a break of 119 days. So the upper house in New South Wales sat for 19 days more than the House of Assembly in that state.

I do not think the performance of the opposition and the government ought to be measured by the number of days we sit, or for that matter the number of bills we pass, or the number of issues that are discussed. I have heard an interesting suggestion that we ought to be sitting longer—I think it has come from someone in the public media—and that we ought to be having debates about issues of public importance.

That begs the question: if we have a debate about a matter of public importance, which our standing orders presently allow, what happens after that? We might vote on it and we might come to a consensus decision, but what effect will it have on the broader community because, frequently, it will not be reported in full and, in any event, it may be an issue that some members feel passionately about and others do not, and out in the community it may be that it is not an issue that switches on the electorate?

One has to try to appreciate that the parliamentary process is partly about legislating, partly about exposing ministers to question time and importantly about enabling the committees of the parliament to get down and do their work. It is not as though nothing is happening when parliament is not formally sitting. I suggest that everybody in this chamber and in the House of Assembly is not sitting twiddling their thumbs—that SA First is out their campaigning actively, that the Labor Party and the Democrats are out there, that the Liberal Party is out there, and that the Hon. Mr Xenophon, on behalf of the No Pokies party, is out campaigning. Everybody is attending functions and a wide range of activities, and seeing constituents and so on.

In the House of Assembly it is a much more focused approach because those members have local electorates to which they are accountable so that they must be seen at the school fair, the school fete, the school council, the local Rotary club, and so on, and they are campaigning in their local seats—

The Hon. T.G. Cameron: You would not think that, judging by some of their performances.

The Hon. K.T. GRIFFIN: I am talking about what should be the position. I know that many members do that, and the rest of us should not be judged by what the remainder do not do. So far as ministers are concerned, as well as members, there are so many other things that have to be done in the course of a day, and it is not uncommon for ministers at least, and I suspect members as well, to work 90 to 100 hours a week.

An honourable member: Is that all!

The Hon. K.T. GRIFFIN: Some will work longer, but members of the public do not see that, and members of the media do not want to see it. There is some sort of magic about parliament actually sitting so that the bear pit can operate to give a few minutes satisfaction to those who want to get a 10 second grab of shouting and interjection in question time each day.

I think this has to be put into perspective. The Hon. Mr Xenophon has not been in the parliament for very long. Maybe he does not work the long hours that other members do. Maybe he does not understand that the committees are much more active than they ever were and that they are performing public responsibilities. Some people outside this chamber will cast doubt on that observation. There will be criticism that we are not sitting, that we are not passing bills and doing that sort of thing, but—

The Hon. Diana Laidlaw interjecting:

The Hon. K.T. GRIFFIN: That's a point, too. The public do not want legislation for the sake of legislation. To judge the parliament by the number of bills that are passed I think is a rather superficial approach. Rather, the parliament and members should be judged by the quality of their work, the quality of the legislation and also what they do outside the chamber when the houses are not sitting.

There are other issues that we could elaborate on in relation to sitting hours, but in the end this is about politics: in many instances it is about clashes of ideology and about setting perceptions as well as about achieving goals. In that sort of hotchpotch of different agendas I do not think anyone can compare this to a normal business or other activity out there in the community where, for example, businesses are accountable only to their shareholders, and their shareholders are concerned about the dividends and the value of their shareholdings.

They are not constrained by the Ombudsman, the Auditor-General, the Economic and Finance Committee and all the other mechanisms for drawing attention to the way in which members of parliament and governments actually behave. Everybody talks about accountability, but I do not think that we take enough time to think about what it means. It is not

about just sitting in the parliament, and it is not just about passing legislation; it is about being available for questioning. In the end, if a party does not have the numbers to overturn a government, it is about drawing attention to shortcomings and issues. In the long term, that has a cumulative effect as we approach an election period, and I think everybody recognises that.

In the context of all of that I suggest that the Hon. Mr Xenophon's bill is, first, impractical because it is inflexible; secondly, it is much more capable of abuse than the present system because, if you have a maximum time between sitting periods, you can sit for a week and then you are up again, and you can circumvent it; and, thirdly, it ignores the reality that there are events and activities that require careful planning and flexibility in periods of sitting so that we can accommodate both the community's needs and members' needs as they go about their public responsibilities. As I said, some members will not perform in the way that the public or the media might want them to perform, but that should not be the basis upon which everybody in this institution is judged.

I suggest to the Hon. Mr Xenophon that his bill is ill-advised and I think it is impractical, inflexible and certainly will not work. The system that we have at the moment in relation to sitting days is an appropriate way to deal with the length of time and the periods for which parliament should sit and the periods which intervene between sittings. So, the government does not support the bill.

The Hon. P. HOLLOWAY: Members of the opposition agree with the sentiment that is behind the bill, that is, that the parliament of this state over the past 18 months or so has not sat as frequently as it should. However, we do not support the concept that we should bind ourselves through an act of parliament to sitting particular hours. We agree with the sentiment that the Attorney-General has just expressed, that such a system of legislating our sitting times would be very inflexible, and that there are special occasions, for example, in an election year, when the election period and the counting of votes takes a long time, particularly if there is a change of government and the formation of a new government. That could mean that parliament will not sit for a considerable period of time, and I think that under the Hon. Nick Xenophon's bill some anomalies could arise.

We believe it would be far better if the parliament itself set the standards in this area. After all, if a majority of members of parliament support longer parliamentary hours, then they should be able to give effect to that in other ways. Inevitably, I think the House of Assembly will be the main driver of the parliamentary timetable because that is where the government is formed and that is where most legislation still arises.

I note that Rory McEwen, one of the Independent members in the House of Assembly, has suggested that at the end of this sitting he might move an amendment to bring back parliament earlier because he thinks the break is too long. Given that he is a supporter of the government, and that we have a minority government, that is one way in which parliament can be brought back earlier if that is the wish of the majority in the parliament.

I think, in many ways, the House of Assembly will inevitably be the main driver of the timetable and the Legislative Council will inevitably respond to that timetable. I also believe it is inevitable that this chamber will sit, particularly at the end of sessions, for longer periods each day, and for more days, because of the way legislation comes about. All honourable members know that at this time of the year, as we near the end of a session before a long break, there is an enormous amount of legislation before the parliament. For example, if we look at this last week of the session—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The Hon. Angus Redford says that some of it has been sitting around for a while. That is true in several cases but there is also other legislation, such as the TAB sale, for which we have not had the second reading. Clearly, that is a bill that this government would like debated—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: That may be the case in the lower house but we are talking about how long members of this chamber have to consider it. We may all know the issues and the debate that is going on but those of us in this place who have to deal with the bill might like to read what has gone on in the debate in the other chamber. We would like at least a few days to do that.

We have these problems at the end of a session which I think underlines the point that the inevitable rush at that time suggests that this government is not sitting for as many days as it should in order to deal with the legislation before the parliament.

The Hon. R.R. Roberts interjecting:

The Hon. P. HOLLOWAY: That is right and the government will be deservedly judged by that. At the same time, if the government does intend to rush through legislation towards the end of a session, it cannot expect the opposition and the minor parties to deal with the huge amount of legislation. We are entitled and, indeed, have an obligation to the public of this state to give adequate scrutiny to legislation.

I believe that the opposition has been very cooperative over the past few years, and we will be as cooperative as we can again at the end of this session. While we are happy to cooperate, at the same time we do have an obligation to the people who vote for us to ensure that legislation is properly considered, and we will do that. The real issue is more quality time, if I can put it that way, rather than a greater quantity of time. For example, we had a situation where we had a select committee—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: I think it is entirely appropriate in this debate that we discuss the issue of how long parliament sits, because it is a matter of public concern. Obviously, the Hon. Nick Xenophon has introduced this legislation in response to public concerns. I believe it is entirely appropriate that we debate this issue.

As I have said, what we need is better sitting time rather than just the number of days. For example, we had a select committee some time back (I think it was the committee on the centenary of women) which made a number of recommendations, many of which I thought were very sensible, in relation to the sitting hours of parliament. It suggested that, rather than being up until midnight every night for four or five nights in a session and having legislation by exhaustion, it would make more sense to spread out the time and have more regular sitting times.

The President is not in the chamber at the moment but I give him credit at least for trying to revive the recommendations of that committee and trying to have something done about it. It is a great pity that this parliament has not ad-

dressed some of those recommendations as seriously as it might. I believe that sort of reform is far more likely to lead not only to better legislation and a more sane debate, because of sensible sitting hours, but it would help address many of the problems.

In my view there is a need for a number of other parliamentary reforms. It is not just a matter of proscribing the number of hours we have to sit or the number of days: I believe we need reform to our committee system. I know that some parliaments in this country now have fixed elections, which is a reform that many suggest would assist matters. I read a report recently from Tasmania in relation to its committee system where, following a change in the size of the parliament, a number of suggestions have been made as to how the select committees might operate. While in many ways it follows the model we now adopt in this parliament, there are a number of suggestions from those Tasmanian reports that I believe we could adopt.

I think the real issue that we are looking for—certainly on this side of the parliament—is greater accountability of the executive to that parliament. There are many ways that can be done. In his speech earlier, the Attorney-General addressed the matter of question time and he pointed out how important that is in providing accountability. Most honourable members would realise that unfortunately question time in this day and age is something of a sad joke.

After the 1993 election the Brown government introduced a reform which I thought was a progressive reform with respect to parliamentary accountability. It introduced a minimum number of questions in the House of Assembly. It provided under its rules a minimum of 10 questions for the opposition during every question time—

The Hon. Carolyn Pickles interjecting:

The Hon. P. HOLLOWAY: Yes, it has. That continued for some years until Premier Olsen was elected and he promptly dumped it. We now have question time in the House of Assembly where on some days the opposition, instead of getting the 10 questions it was allowed for the first three or four years, is reduced to as few as three or four. Of course, we have had the lengthy dorothy dixers—

The Hon. T.G. Cameron: Do they indulge in lengthy 10 minute preambles down there like we sometimes hear?

The Hon. P. HOLLOWAY: No, they have different standing orders. The thing is, what has happened was—

The Hon. T.G. Cameron: We need only 35 minutes to ask questions; the other 25 minutes is preamble.

The Hon. P. HOLLOWAY: I do not know whether that is really the case. It is certainly not true of the questions I ask. I rarely have a lengthy preamble. The point is that, whereas this government did seek to introduce reform by allowing for a minimum number of questions during question time, unfortunately that has now been dumped under the current Premier. That is quite a regressive step.

Allowing the opposition to ask a minimum number of questions during question time is probably far more important in terms of providing accountability than having a number of extra sitting days. You can always set aside a few extra sitting days but, if you have the farcical question times that we tend to have, that will not necessarily lead to greater accountability.

One thing that happens in some parliaments throughout the world is, in terms of questions (I think it occurs in the Senate, for example), ministers have time limits applied to their answers. Indeed, there are limits on the time allowed for a member to ask a question. They are the sorts of reforms that perhaps this parliament should look at in terms of getting some genuine reform in respect of accountability at question time.

The point I am trying to make is that there are many reforms we could think about introducing to make our parliament more effective or accountable, but just increasing the number of sitting days alone will not necessarily solve the problem. What it does, as has been pointed out earlier, is potentially create a number of anomalies, particularly in election years and so forth.

As far as the opposition is concerned, we have made the commitment that parliament will sit more hours under a future Labor government. I think that, if you look back over the history and the statistics the Hon. Nick Xenophon has provided in this debate, you will see that past Labor governments have a consistent record of sitting far more frequently that this government does.

The Hon. A.J. Redford: What are you actually going to do?

The Hon. P. HOLLOWAY: Again, the Hon. Angus Redford seems to be fixed with this idea that somehow we have to set aside a particular number of sitting days. We are not supporting the Hon. Nick Xenophon's proposal because it provides for an arbitrary number of sitting days. What I have said is that, in the past, if you look at the statistics provided by the Hon. Nick Xenophon, Labor governments have sat considerably more frequently than this government. More importantly, if in the future I have the opportunity, I will personally seek to introduce reforms that will certainly make the parliament far more accountable than it currently is.

The Hon. Diana Laidlaw: How many days? Ten days?

The Hon. P. HOLLOWAY: As I say, the Hon. Diana Laidlaw—

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The Hon. Paul Holloway has the call.

An honourable member interjecting:

The Hon. P. HOLLOWAY: The whole point about this is that under this government about the only thing that we have been debating recently has been the sale of major state assets. Given the fact that we have now sold almost every asset that this state could possibly own—there are very few left, or there will be if the current bills go through—one wonders exactly what legislation this parliament will debate in the future, because we really wonder what this parliament will be responsible for if this government sells everything off.

Our view is that it is not necessarily a sensible approach to prescribe a minimum number of sitting days for parliament. However, we do need to reform parliamentary sitting hours and the parliamentary program so that during question time there is greater accountability. As I said, like Labor governments over the past 20 or 30 years, we will sit on a far more regular basis than this Olsen government has in the past couple of years. There is no doubt that this government has been running for cover.

The Hon. A.J. Redford: What from?

The Hon. P. HOLLOWAY: Public scrutiny. If ever there is a government that is hiding from public scrutiny—

An honourable member interjecting:

The Hon. P. HOLLOWAY: This is the most secret government in the history of this state. The Hon. Angus Redford, as chair of the committee that is looking at freedom of information legislation, should know that for a start. Just yesterday the Ombudsman brought his report down showing

an 18 per cent increase in cases the Ombudsman has had to deal with because this government—

The Hon. A.J. REDFORD: Mr Acting President, I rise on a point of order. the Hon. Paul Holloway misrepresents that report. He knows that the record of this government is much better than the record of the old government, and that was signed off by Labor Party members—

The ACTING PRESIDENT: Order! There is no point of order.

The Hon. P. HOLLOWAY: Frankly, I think the Hon. Angus Redford did not understand what I said. I was referring to the Ombudsman's annual report that came out two days ago where he reports a big increase in the number of disputed issues under freedom of information. You have only to read this morning's *Advertiser* and you will understand that. I was not referring to the report that I believe the Hon. Angus Redford thinks I was. However, the point is that this government—

Members interjecting:

The Hon. P. HOLLOWAY: It is quite clear—

Members interjecting:

The Hon. P. HOLLOWAY: The record will, I hope, show, given all these interjections, diversions and so on created by government members opposite, that they are not really serious about the issue of parliamentary reform. We are opposed to this bill because we do not believe it is the way to proceed in terms of ensuring greater accountability in parliament and making it sit for a longer time. I think it is sad that members opposite treat this important public issue with such contempt. When the Attorney-General was making his contribution earlier, I listened in silence, because I believe this subject is important and I believe it needs to be treated seriously; it is something that all members should pay attention to. The future of this parliament is important and I think that anyone who does not believe that the practices in this parliament need reform is absolutely kidding themselves.

It is obvious, with the attitude of members opposite, that there is no point in prolonging the debate. We will not support this measure but we will certainly give the pledge that in the future we will be supporting a greater level of accountability in this parliament.

The Hon. L.H. DAVIS: This bill is essentially a stunt. The Hon. Nick Xenophon is a somewhat accomplished stuntman and on a number of issues he has achieved some publicity. But the shallowness and mediocrity of his debate deserves to be exposed. I did not intend to speak in this debate but, having researched the subject, I thought I might share with the chamber the facts and figures that one could have reasonably expected from the mover of the motion. He has not given one shred of evidence about the history of the parliament, how often we have sat, the structure of the meetings that we have outside the parliament, or the length of the sittings that we have in parliament. It is a typical Hon. Nick Xenophon stunt, full of hypocrisy and mediocrity.

Let me apprise members of exactly what the figures are for the sittings of this Council over the last 26 years. What does the Hon. Nick Xenophon reckon the average has been over the last 26 years? Do you have any idea what the average number of days is? Would you know?

Members interjecting:

The ACTING PRESIDENT: The Hon. Mr Davis should not direct questions to the Hon. Mr Xenophon.

The Hon. L.H. DAVIS: As I would suspect, the Hon. Nick Xenophon does not have a clue—not a scintilla. What was the average?

The ACTING PRESIDENT: The Hon. Mr Davis will resume his seat. There is a point of order.

The Hon. NICK XENOPHON: The Hon. Legh Davis is out of order. He knows this is not a courtroom where he can interrogate another member—

The ACTING PRESIDENT: There is no point of order but I have made it clear to the Hon. Mr Davis that he should make his text.

The Hon. L.H. DAVIS: The fact is that over the past 26 years in the Legislative Council the average number of days that we have sat is just a shade over 53 days. If we sit next week, and that is yet to be determined but one suspects it is a fair bet, and if one takes into account the sittings schedule that we know of for the balance of this 2000-2001 session, we will sit 50 days in this current year, which is just a touch under the average over the past 26 years of 53 and a bit days.

The Hon. T.G. Cameron interjecting:

The Hon. L.H. DAVIS: No, I am not. I want to go on—

Members interjecting:

The Hon. L.H. DAVIS: I want to add a point to this. If you look at the number of hours that we are sitting, you will see that it is greater than it used to be. For instance, in 1999-2000 we sat for a daily average of six hours 34 minutes; in 1998-1999 we sat for a daily average of seven hours six minutes; and, if you go back into the glorious years of the Bannon government and the Dunstan government, you see that the average sitting hours were much shorter. In 1988-1989 when Premier John Bannon was breezing along as a very popular premier, we sat for only an average of five hours seven minutes. In 1987-88, we sat only six hours and 25 minutes. Going back to 1985, we sat four hours and 29 minutes, on average. One does not take into account only the number of days that we sit but also the number of hours that we sit on average each day. We did not get that sort of information from the Hon. Nick Xenophon.

The other point that has not been made and should be made is that, in the early 1990s, this parliament through initiatives of the Independent Labor member Martyn Evans, supported generally across the parties, reformed the parliamentary committee system. This means that every member of parliament, by and large, has a role in a parliamentary committee, which meets every week most weeks of the year. In addition, there are select committees. Since 1981, we have had a budget estimates program which meets for two weeks but which unfortunately does not cover the Legislative Council, but that is a matter for another day. We also have party meetings and there are electorate commitments.

The Hon. Nick Xenophon makes much of the point that parliament should be the place where government is held accountable. I put to the Hon. Nick Xenophon that it is not only for the government to be accountable but for all members of parliament to be accountable. The Hon. Nick Xenophon, in his own pious, inimitable fashion, brings a bill into parliament that involves his raison d'etre, that is, abolishing all poker machines over a five-year period, and when I ask him in the committee stages of the debate how we are going to replace the $200 million of revenue that will be lost out of poker machines when they are finally abolished under his bill, given that that $200 million represents 10, 11 or 12 per cent of state government revenue in a year, what sort of accountability does he show? He says that is a mischievous question. That is the level of accountability that

he has. He comes up with a lovely idea but there is no accountability behind it. Let us stop being pious about this matter. As the Hon. Paul Holloway said, we are talking about quality time. We are certainly not getting it from the Hon. Nick Xenophon in this bill.

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

NARACOORTE CAVES

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

That this Council requests His Excellency the Governor to make a proclamation under section 29(3) and section 28(1) of the National Parks and Wildlife Act 1972 abolishing the Naracoorte Caves Conservation Park and constituting the land formerly comprising that park (except for four small parcels that have negligible value) as a national park with the name Naracoorte Caves National Park.

This seeks to have South Australia's only world heritage site, the Naracoorte Caves Conservation Park, upgraded to the status of a national park. In June this year, the Minister for Environment and Heritage (Hon. Iain Evans) made a statement indicating that Naracoorte Caves has been a conservation park since 1972 and that it conserves and protects a specific karst and cave system and examples of vertebrate fossils. It was first dedicated as a cave reserve in 1885 and then as a national pleasure resort in 1917. The Naracoorte Caves were inscribed on the World Heritage List by UNESCO in 1994.

Naracoorte has been identified as being among the world's 10 greatest fossil sites, and the fossil material in the caves is invaluable for interpreting the geological and evolutionary history of Australia. It was my pleasure earlier this year to make my first trip to the caves and to go underground, and I was quite bewildered by the extent of the caves and the history of their early exploration, and to see the amazing forms and the bats. It was also exciting to see so many people at the caves learning about the early geological history of the South-East of South Australia.

Whereas a conservation park consists of land that is protected for the purposes of wildlife or historical features, a national park comprises land that is of national significance because of its wildlife population or historical features. Very clearly in my experience, the Naracoorte Caves fall into the latter category, and the government seeks to ensure that through this measure. The National Parks and Wildlife Act provides no alternative mechanism for changing the category of a reserve other than to abolish and reconstitute the reserve, so under the act this can be done only by resolution of both houses of parliament. That is the reason for this motion before the Legislative Council, and a motion with exactly the same wording is now before the House of Assembly.

In conclusion, I highlight that national parks comprise land that is of national significance by reason of wildlife or natural features of that land. As South Australia's only world heritage site, it is appropriate that the Naracoorte Caves become a national park to provide formal recognition for an important state and regional location. This initiative has had the strong support of the local member, the member for Mackillop (Mitch Williams), and I anticipate that the motion will have the unanimous support of all members of this Council.

The Hon. T.G. ROBERTS: I indicate that the Labor Party will support the government's motion. I will make a few comments in relation to the changed status from conservation park to national park. It is the only world heritage site that we have in South Australia, which is a bit disappointing. Many other features in South Australia could be looked at in relation to proclamation as world heritage. At one stage we were looking at the Coongie Lakes area; there is the Nullarbor Plain; and the marine park conservation area on the west coast was being talked about. We have had quite a few areas that have been talked about for consideration but we have not got round to the quite complicated long process that world heritage listing has built into it.

This is a moment of confession: although I live only 100 kilometres from them, I have not visited the Naracoorte caves for some 20-odd years, since the latest round of improvements have been made.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: Yes, I have seen them on television, I have read the brochures, seen the play, read the book, but I have not been there yet, so I will need to turn some time over to visiting them. They are not far from Bool Lagoon, which is another area in that—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: No, I am not a duck hunter. I go there with my binoculars to watch the geese and the birds. It is a lovely area. Naracoorte is blessed with attractions that are drawcards for tourists, particularly from Victoria and New South Wales. I think that with the upgrading of the status of the park greater attention is drawn to it and it gets a different status in interstate recommendations for visitation. Certainly, the work that has been done in upgrading it and showing it as an educative centre as well as a centre for an environmental experience makes it almost unique in Australia.

My understanding is that a number of areas yet to be opened up have considerable merit in terms of comparison with the areas of the cave that have been opened. Certainly, the rest of the South-East has a number of caves that I think the government would do well to investigate. There are many caves in the Mount Burr, Tantanoola and Mount Gambier areas that have no status at all as they are not open to the public, because in many cases the entrances are either partly concealed or sealed.

Speleology, or cave exploration, is one of those areas of conservation that can go into the ecotourism classification, which is certainly underplayed in the South-East of South Australia. I am also aware of a lot of cave entrances that have been covered over in some of the pine plantations that have been replanted since the 1983 bushfires, and from time to time front end loaders and plant and equipment find their way down some of those when the entrances are not marked.

There is a lot of work to be done in relation to improving the whole chain of cave systems in South Australia, and this is a step forward. The proclamation would lift the status of the conservation park to include it as a national park, and we support it.

The Hon. M.J. ELLIOTT: In speaking to this motion I want to raise some questions with the minister, and the Democrats' reaction to the motion will really be based upon the answers that we receive. The first point I make is that, when this was first announced, it was announced as a major upgrade of the park by renaming. It is worth noting that from an environmental perspective the level of protection for the park does not change when you change its name from conservation park to national park. Some people might think

that, somehow or other, it gains extra protection. In fact, it is nothing more nor less than a change in name.

The Hon. T.G. Roberts interjecting:

The Hon. M.J. ELLIOTT: It gets called a national park rather than a conservation park. But that is well and good. Perhaps if people overseas had more understanding of what a national park and a conservation park are, that would be fine.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: Yes. I make the point that, from a purely conservation viewpoint, it does not make a hill of beans difference whether you call it a conservation park. If you read the act, they are both treated in exactly the same way in terms of the way in which they are protected or not protected. I am quite happy for the name change, just as there was a change for the Belair National Park from conservation park to national park about seven years ago, although I must say that its being considered a national park did not stop a major proposal for a resort development inside the park.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: I am glad that it was stopped, but it was there for a very long time before it was.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: No. In fact, I think that if the government had said, 'Our policy is not to allow that sort of development', it could have stopped there and then. In terms of being in charge of conservation, the government—as distinct from the planning minister—was always in a position to have a clearly stated policy about what form developments in parks would take, when it is appropriate and when it is not, etc. It is an issue that we are addressing in the ERD Committee right at the moment, the whole issue of ecotourism, and it is proving to be most interesting.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: It is. I am a very strong advocate of ecotourism, but people have many different views about what it actually means. For some people it is building five star resorts in among the gum trees: for others it means far more. In terms of the economic return, I suspect that niche marketing ecotourism of the non-five star variety is likely to get a better economic return as well as to better protect our parks. But that is a digression.

I have had the opportunity to visit the caves on a few occasions, although it is a couple of years since the last time. I must say that, after visiting a few caves in the South-East, there is a certain sameness about them, but they are still quite amazing places to visit. The one thing that you have to be careful of with caves is that you do not love them to death. One of the big risks with caves is that, as you open them to make them more accessible, you increase the air flow. If you increase the air flow, they start drying out; and, if they start drying out, you then interfere with the stalactites and stalagmites, and other more delicate things that build up in caves can actually stop, so you can even cause damage.

Although I have no evidence that it has happened down there, while in our enthusiasm we promote it and, as I said, they are wonderful places to visit, I do hope that there is careful assessment being made as to what level of visitation is sustainable for the cave in the longer run.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: I would be interested to know what assessment has been made in relation to that. That is not an anti-visit-caves comment but just a comment along the way. To me the more important questions relate to the latter part of the motion, which actually excludes what are described in the motion as 'except for four small parcels that have negligible value'. We are not told whether this negligible value is ecological value or financial value, but I suspect that that has more to do with what is happening in this motion than the renaming of the park, and it is about this matter that I want to ask questions. In South Australia, we have had probably the most significant clearance of vegetation anywhere in Australia in terms of the percentage of vegetation cleared.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: No, we have cleared far more than Queensland.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: No. It is true that we have stopped and Queensland is going berserk on clearance, but in percentage terms we have already cleared far more vegetation than any other state. As one who comes from the South-East, I can say that the South-East has probably had far greater clearance than most other areas of South Australia. The only bits that have not been cleared are some of the coastal areas which are totally useless for farming. They are extremely rocky, probably salty, and have no soil. So, you get these little parcels of land mainly hugging the coastline which have not been developed and which make up most of the national parks in the South-East.

I remember as a kid with a different mindset going for drives to Portland. I noted that the moment you got to the border of South Australia and Victoria suddenly the land was all scrub. I used to think how underdeveloped this place was and how backward the Victorians were. We had all our scrub cleared and we had farms and pine trees. The Victorians have been catching up. However, because they started clearance in that area later, they still have some quite significant national parks in comparison with what we have just over the border.

The first question that I put to the minister is simply: what area of remnant vegetation is there in the whole of the South-East? My next question is: of the vegetation type that is found within the Naracoorte Caves Conservation Park, how much of that is still remnant in the South-East? These questions are important because, if you are trying to conserve both fauna and flora, you need to understand what are referred to as island populations. You can have island populations on the mainland in terms of remnant vegetation appearing in islands. You have populations of plants which have been separated from each other and therefore are not cross-breeding, but, more importantly, you have remnant populations of animals. Sometimes, if you have a quite small island of vegetation, you can have a small number of a particular species which is no longer interbreeding with remnants of that species in other island populations. What happens is that you end up with a narrowing of the genetic base and a very dramatic collapse and you lose that species from the island and, bit by bit, you lose the species totally.

A bit of work has been done recently in relation to the Mount Lofty Ranges on this very issue. I note that it is expected that, within 20 years, we will see a dramatic decline in the number of species in the Adelaide Hills for this very reason. Why is that significant in relation to the Naracoorte Caves? I want to be convinced that this particular island of vegetation is large enough in itself to be important and that there is enough of this vegetation type more generally in the South-East so that animal populations and species which are dependent upon it are protected.

I have noted during debate that the excuse for carving off these four small parcels of land is because they are considered to be degraded. However, my understanding is that, whilst the understorey is degraded, the upper storey is still there. Just because the understorey is degraded is no reason to say that it is no longer important. First, we should recognise that in terms of many species mature trees which contain hollows provide homes for half the species of birds that we have and about half the species of mammals. So, those mature trees, although they are in an overall degraded habitat, are still significant for some species.

Secondly, we can look at what has been done in the Belair National Park. The western end of that park was severely degraded in the past through grazing, etc. Whilst it is nowhere near pristine, significant work has been done by volunteer groups over several decades progressively to reinstate it. They are keen to do that because, first, the vegetation types in the western end are poorly represented and, secondly, they are attempting to make the island of vegetation larger. So, in respect of this matter of saying that the land is of negligible value, I would welcome the tabling in this place of the biological reports that were prepared for the minister which make the case that this land is of, I presume, negligible ecological value and which examine those issues that I have covered in terms of the area of remnant vegetation, remnant vegetation of this type and, therefore, the significance of this particular island of vegetation.

I suspect that this land has significant financial value because, in most areas of the South-East now, there cannot be the creation of new farmlets. Most councils went through a stage a couple of years ago where hobby farms were being created. It has now been realised that we are starting to lose too much valuable farmland because of that. As I see it, these four small parcels of land (new hobby lots) would be attractive to some people and would probably bring a rather tidy sum. I am sure that, whilst that money would be spent in national parks, it would be a one-off expenditure, and, once that land has been fully degraded and lost to hobby farms, we will not be able to get it back.

I welcome the minister's response to those issues regarding the ecological value of those four parcels of land, recognising that they still may be severely degraded, and I am particularly keen to see the reports which back up the claim that these parcels are of negligible value.

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

LEGAL ASSISTANCE (RESTRAINED PROPERTY) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Criminal Assets Confiscation Act 1996; the Criminal Law (Sentencing) Act 1988; the Legal Services Commission Act 1977, and the Criminal Law Consolidation Act 1935. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

The *Crimes (Confiscation of Profits) Act* was passed in 1986. It came into effect in March, 1987. It was the product of international and national movement against organised crime and drug offenders in the mid 1980s. In particular, there was agreement on the need to enact confiscation legislation in the area of drug offences at a Special Premier's Conference in 1985. Model uniform legislation was agreed by the Standing Committee of Attorneys-General.

In 1994, Mr David Wicks QC (as he then was) was commissioned to examine the legislation and proposals that had been made to improve it, with a particular eye to putting the Act on a sound commercial basis. Mr Wicks' recommendations were thorough and detailed and, as a result of the review and the consultation process which followed it, Parliament enacted a new *Criminal Assets Confiscation Act* in 1996. The Act came into effect on 7 July, 1997.

As was the case previously, the Act contained extensive powers for a court to make what are known as 'restraining orders' on application by the Director of Public Prosecutions. Restraining orders are admittedly severe in their operation. They are orders of the court which 'freeze' or make an order as to the temporary disposition of property and assets belonging to or found in the possession of the accused even before the trial of the accused has begun. The necessity for such powers is obvious and they exist in equivalent legislation throughout Australia. If the State is to make a serious attempt to confiscate the profits of crime or 'tainted property' through the use of which crime has been committed, there must be a way of preventing those accused of crime from moving those assets or property under threat from the reach of the court and the process of forfeiture. Restraining orders are the way in which this can be done.

Since restraining orders have the effect of 'freezing' assets, including money, an area of conflict has arisen over whether, and the extent to which, frozen assets can be released for use by the accused to pay his or her legal costs to defend him or herself. This is not a simple question. It has become more significant since the decision of the High Court in *Dietrich* (1993) 177 CLR 292. In that case, although the High Court held that an accused person had no right to counsel, it held that he or she had a right to a fair trial. It followed, said the High Court, that where an accused charged with a serious offence was indigent and therefore could not afford legal counsel and could not get legal aid, and where the court of trial was convinced that he or she could not have a fair trial because of that lack of legal representation, the trial would be stayed until there was representation. Whether that is a good decision or not is not at issue here. What is at issue is that there may well be circumstances in which a court will be faced with a person charged with a serious crime who cannot be tried until a legal defence is funded by some means.

One of those means may well be 'frozen assets'. The importance of frozen assets is emphasised by the fact that, if the accused does have frozen assets, the Legal Services Commission will not fund legal aid for the accused until those funds have been accessed.

The predecessor *Crimes (Confiscation of Profits) Act* did not specifically mention access to legal fees for this purpose at all. Section 6(3)*(c)* provided that the restraining order may provide for payment of specified expenditure or expenditure of a specified kind out of the property. This was the source of any application to have restrained moneys released for the payment of legal expenses. The leading authority is the decision in *Vella* (1994) 61 SASR 379. The court held that the general power conferred upon a court to authorise payments out of restrained funds for 'specified expenditure' conferred power on a court to make provision for the payment of legal expenses from restrained assets. Further, the court said that the fundamental principle relevant to the exercise of the discretion is that a person accused of a crime is entitled to employ from his or her own resources the legal representation of his or her choice.

As a result of these developments, the 1996 Act contains specific provision for payments out of restrained funds for legal expenses. Section 20(2) provides:

(2) Property subject to a restraining order may only be applied towards legal costs on the following conditions—

(a) the court must be satisfied that—

(i) it is unlikely a person other than the person who wants the property applied toward legal costs could (assuming the property were not forfeited) establish a lawful claim to the property; and

(ii) the person who wants the property applied towards legal costs has no other source of funds (within or outside the State) that could reasonably be applied towards legal costs; and

(b) the court may only authorise application of property towards the payment of legal costs on a reasonable basis approved by the court.

Legal Expenses and Restrained Property—The Nature of the Problem

While the new Act referred to 'legal costs on a reasonable basis' and hence sought to adopt the position taken by Olsson J in *Vella*, it does

not specify any further criteria, thus leaving the question of reasonableness to the court. There has, therefore, been some litigation on the question. In *Petropoulos* (1998) 196 LSJS 358 the accused was charged with a number of offences relating to the sale of cannabis. The DPP obtained a restraining order over four amounts of cash: $2 416 found on the person of the accused at the time of his arrest; $63 350 found in the luggage of the accused at the time of his arrest; and $33 050 and $1 000 found in a floor safe at the home address of the accused. The accused applied for a variation of the restraining order so that he could access these funds to pay his legal expenses in defending the charges against him. He declared by affidavit that he had no other assets and no income aside from a social security pension. The question was as to the basis on which the legal fees should be assessed.

It was argued on behalf of the DPP and the Attorney-General that the applicable rate should be the rate set by the Legal Services Commission. It was argued on behalf of the accused that the rate should be the rate set by the Supreme Court scale of costs. Lander J did not agree with either argument. He decided that the rates set by the Legal Services Commission could not be said to be a rate of costs fixed on a reasonable basis. He also decided that the Supreme Court scale was not appropriate for work done in the Magistrates Court. He decided that, as a general rule and subject to particular circumstances, what was reasonable were 'the charges prevailing in the market place' and 'the scale of costs in the court in which the legal work is to be performed.'. This judgment was affirmed in a case in which the accused desired the services of a QC at trial in *Belmonte* (unreported, 1998).

The *Petropoulos* case reveals the inherent problems with this approach. Before trial, the accused argued that the court had no jurisdiction to hear the case because the cannabis in question was intended for sale in New South Wales and not South Australia. The trial judge ruled against the accused but nevertheless stated a question of law on the point to the Court of Criminal Appeal. The accused was represented on the point of law argument by a QC and junior counsel. The Court of Criminal Appeal ruled that the trial judge was right. The accused then tried to appeal to the High Court. On the application for leave to appeal to the High Court, the accused was again represented by a QC and junior counsel. The High Court refused leave. Thus, at that point, more than $40 000 has been spent on legal expenses, there has been no trial on the merits of the case, and the accused has lost each stage of the argument.

In *Pangallo* (unreported, 1999), the accused was charged with one count of selling cannabis and one count of possessing cannabis for sale. The amount of cannabis involved was in excess of 2 kilograms. Police found $5 000 cash on the person of the accused at the time that he was arrested and $36 000 cash on his premises. The DPP obtained a restraining order over this cash and a motor vehicle involved. The accused applied for access to the restrained funds to pay his legal expenses at trial on the basis that he was unemployed and in receipt of a partial invalid pension. He applied to have access to the funds to pay a QC and junior counsel to appear for him at trial at a cost of $3 500 per day for the QC and $190 per hour for the solicitor involved. The magistrate found that on the state of the current law, the accused was facing a serious charge that may lead to imprisonment and that, if he wanted a QC to represent him, a starting point would be $2 000 per day, plus $1 000 per day for a junior plus a solicitor's fee. In the event, he allowed $2 500 per day for the QC in this case. The important point is that the court held that: 'It seems obvious that if the defendant chooses senior counsel to represent him in such serious charges, this court should take note of that, and authorise a rate that in the legal market place recompenses senior counsel.'.

Legal Expenses and Restrained Property—What is Wrong With the Current System

The important question is: what is wrong with this state of affairs? In the most general of terms, to paraphrase the Supreme Court of the United States in *Monsanto* (1989) 105 L Ed 2d 512, when Parliament decided to give force to the axiom that crime does not pay, it did not mean crime does not pay except for lawyer's fees. The argument that the accused does not receive the benefit of the assets but rather the lawyer does is unpersuasive: the accused receives the benefit of the defence paid for by those assets and, as has been shown by the examples given, that may be a considerable benefit indeed.

The argument that, unless it can be shown that some innocent third party has an interest in the assets, the accused has the best interest in the assets and should therefore be treated as any other funded litigant in the market place is correct in law, but is not sound in policy. The reason is that, by enacting a confiscation of assets scheme which directs confiscated criminal assets into the criminal injuries compensation fund, Parliament has constructed a scheme which, as a matter of policy, gives the State a contingent interest in the assets over which a restraining order has been made. That interest is most clearly shown in a string of cases in which a person accused of drug trading offences is found in possession of large amounts of unexplained cash, and yet applies to the court for access to money to fund a legal defence because he or she has no income or is on a pension. If he or she has no income, and declines to explain the source of the restrained funds, where did all that cash come from?

This problem is not confined to South Australia. There have been far more spectacular examples in other States. Perhaps the most cited example was a Queensland case known as 'Operation Tableau' in which 12 defendants successfully obtained access to $1.2 million held in an overseas bank account to fund legal advice. The defendants eventually pleaded guilty, but the entire $1.2 million was spent on the preliminary hearing and pre-trial litigation.

This and other, less spectacular cases, have led to legislation in other States, most notably in Victoria. The Victorian scheme now provides that a court is prohibited from making any provision out of restrained assets for the payment of legal expenses in relation to any legal proceedings (*Confiscation Act*, s 14(4)), and replaces that kind of order with a statutory scheme. The statutory scheme (*Confiscation Act*, s 143) provides that where the court is satisfied that the accused is in need of legal assistance in respect of any legal proceeding, because the person is unable to afford the full cost of obtaining legal assistance from a private practitioner from unrestrained property, the court may order Victoria Legal Aid to provide legal assistance to the person, on any conditions specified by the court, and may adjourn the legal proceeding until such assistance has been provided. In general terms, if the restrained property is real property, Victoria Legal Aid is entitled to secure the funds to be expended by taking a charge over the property concerned. If there is no such property, or if it is insufficient, then the State must pay that amount to Victoria Legal Aid to the value of any property forfeited or the amount of any penalty paid to the State in relation to the offence in reliance on which the restraining order was made and the Consolidated Fund is, to the necessary extent, appropriated accordingly.

Legal Expenses and Restrained Property—The Recommendations of the Australian Law Reform Commission

The whole area of restrained assets and legal expenses was examined in great detail by the Australian Law Reform Commission in March, 1999. In its report No 87, *Confiscation That Counts*, the Commission identified the following principles to be central to the confiscation regime:

- a person should not be allowed to become unjustly enriched at the expense of other individuals and society in general as a result of criminal conduct;
- property used in, or in connection with, the commission of a criminal offence, should be able to be confiscated to render it unavailable for similar use in connection with such conduct;
- confiscation of property used in, or in connection with, the commission of a criminal offence, should be available as a suitable punitive sanction (in addition to the traditional sanctions of fines and imprisonment) for engaging in such conduct;
- law enforcement agencies must be given the powers necessary to enable them to ensure that the principal objectives are able to be achieved; and
- there is a need to ensure (through the restraining order process) that property that may be liable to forfeiture is preserved for that purpose.

The Commission reviewed the general scheme relating to the relationship between restraining orders and the release of funds for legal expenses akin to that presently in place in South Australia and concluded that it was unsatisfactory. The Commission concluded (at para 15.23):

> '… the proposition that restrained property should be able to be made available to fund a defence to the very proceedings that would, in the event of a finding against the defendant, lead to the forfeiture or possible forfeiture of that property cannot in the view of the Commission, be sustained.'.

The Commission concluded that the only justification for legislation allowing for the payment of legal expenses from restrained property was the expedient one of not throwing 'a new class of indigent persons upon already thinly stretched national legal aid resources'. Assuming that was the reason, the evidence before the Commission led it to conclude that any expectation that providing such an option would do minimum violence to the principles upon which the legislation was based 'has been found to

be misplaced'. The most serious defects found on the evidence by the Commission included (at para 15.33):

'… funds are not infrequently dissipated on unmeritorious proceedings as there is no mechanism to limit the type of proceedings to be funded, and a defendant who is aware that his or her assets may be confiscated is not likely to exercise judgments exercised by ordinary prudent litigators';

'… it leaves open the potential for persons with restrained assets to seek the most qualified and expensive legal advice available';

'… after available assets have been expended on committal and interlocutory litigation, defendants either plead guilty or apply for legal aid to fund the trial'; and

There is simply no fixed scale against which the reasonableness of legal costs can be measured. In South Australia, there is no general scale of costs for the conduct of criminal matters.

All four phenomena have been observed and documented in South Australia.

There are more technical and procedural problems as well, all of which have been found in South Australia. First, the criminal courts are unwilling and unsuited to the task of determining whether the defendant is indigent, and, if so, the extent to which assets should be released and which assets should be released. Most contested matters are dealt with on untested affidavit in the context of a formal court process. Courts are placed in the invidious position of appearing to pre-judge the merits of the substantive issue at a pre-trial stage. Moreover, the court before which the matter of the reasonableness of costs is litigated may well be a different level of the court structure from that in which the hearing on the merits is to take place or the legal expenses incurred.

Second, the fact that the matter is decided by the court inevitably means that the conduct of the case for the Crown is in the hands of the DPP. This is not seen as appropriate, because the DPP can be placed in the position of having to comment upon and argue about how or in what manner the defence is to be conducted.

Third, The court cannot be expected to monitor continually the expenditure of legal representation. In South Australia, the courts have adopted the practice of ordering any released funds to be paid either directly into the trust account of the defendant's legal representatives, or, more regularly, to the Crown, the Crown Solicitor being expected to monitor expenses. Neither solution is satisfactory. The first is simply an abdication of any accountability at all. The second places the Crown Solicitor in the impossible position of taxing the costs of another's legal practice, which not only poses ethical dilemmas, but is also plainly impractical.

This combination of substantive and procedural problems led the Commission to recommend a different system. The essence of that system is as follows:

- Access to restrained property for the purposes of the payment of legal expenses should no longer be possible;
- The State should be obliged to provide a legally adequate defence to any person rendered unable to fund a defence because of the restraint of property;
- The adequacy of the defence should be comparable to that which an ordinary self funded person could be expected to provide to the proceedings in question;
- The defendant could challenge the adequacy of the defence provided by application to the court;
- The administration of the scheme should be entrusted to the State Legal Services Commission which would, for the purposes of means testing, disregard the restrained assets of the defendant;
- The Legal Services Commission should be enabled to access the pool of restrained or forfeited property (in South Australia, the criminal injuries compensation fund) for the purposes of funding the defence required to be provided;
- In the event that the defendant is acquitted, the Legal Services Commission should be able to recover what it had spent from any previously restrained assets and any funds recovered by this method should be repaid into the criminal injuries compensation fund.

Legal Expenses and Restrained Property—The Proposed Solution

The system proposed by the Australian Law Reform Commission has many strengths and only two weaknesses. With the exception of those two weaknesses, it is proposed that it be adopted.

First, the system calls for a level of legal representation 'of the kind the ordinary self-funded person could be expected to provide for themselves'. Further, a defendant in this position can ask a court to review the level of representation provided. The first element of this is, of course, a fiction. There is no such ordinary litigant. Under the Law Reform Commission proposal, the Legal Services Commission would be asked to have two kinds of clients—those that it normally provides for (and does now) and those for which it is expected, somehow, to provide 'more'. On the contrary, it should be assumed that the Legal Services Commission does provide an adequate level of legal representation for the type of case it is called upon to handle. The scheme should call upon the Legal Services Commission to fund a proper defence in the normal way without a statutory assumption that, in other cases, the defence that it provides is in some respects inadequate. This exclusion obviates the need for a 'court appeal' mechanism which would be just another way of delaying proceedings, expending legal resources and engaging the court in an exercise which, as has been argued above, and vigorously argued by the Commission, the court is not suited to make.

Second, under the Commission's proposed scheme, the Legal Services Commission would have access to the entire criminal injuries compensation fund in each case, without regard to the actual amount of assets restrained in the individual case concerned. It is submitted that that proposal is incorrect in principle. On a pragmatic level, the fact that the restraint of, say, $1 000 may give rise to a call on the criminal injuries compensation fund of, say $60 000 may cause the authorities to not restrain the smaller amount. This sort of calculation is invidious and should not have to be made. On the policy level, once the defendant's restrained and other assets have been exhausted, then he or she is in exactly the same position as any other indigent litigant in terms of Legal Services Commission criteria. There is no sound reason why the criminal injuries compensation fund should subsidise this kind of indigent litigant rather than any other. The purpose of the fund and the system that lies behind it is not to fund litigation but to compensate the victims of crime.

Other Recommended Changes

Consultation with the Director of Public Prosecutions has resulted in some other recommendations for change. They are:

- Courts have shown a tendency to order that, where a defendant applies for access to restrained property for the purpose of paying legal expenses and succeeds to any degree, part or all of the defendant's costs in making the application should be borne by the DPP. This should not be the case. The DPP is being penalised, through orders for costs, for taking part in a statutory regime designed to ensure that the State's contingent interest in restrained property is not diminished. If the recommendations made above are adopted, this will cease to be an issue.
- There are two issues that have arisen in practice as a result of the provisions in the legislation for 'automatic forfeiture', which provisions were new in the 1996 Act. In very general terms, 'automatic forfeiture' works as follows. Where (a) a restraining order is made over property that is (b) the subject of an allegation of a serious drug offence (as defined in the Act) and (c) the offender is finally convicted of the serious drug offence then the restraining order 'automatically' converts into a forfeiture order 6 months after the conviction becomes final. The DPP has identified two practical problems with the relationship between the provision for 'automatic forfeiture' and other provisions in the Act.
- There are exceptions to 'automatic forfeiture'. One of the most important involves the preservation of the rights of innocent third parties who have an interest in the property. The exception requires such a party to show either that the property was obtained lawfully or that it was obtained at least 6 years before the commission of the offence and, in that case, that the property is not tainted. However, by contrast, where 'automatic forfeiture' is not involved, and there is an application for forfeiture by a separate proceeding, the innocent third party has to show that it was obtained at least 6 years before the commission of the offence and that the property is not tainted. The innocent third party can also obtain the property if he or she can show that it was obtained in good faith and for valuable consideration. There is, therefore, a lack of uniformity between the exception to forfeiture in favour of third parties depending on whether the forfeiture is by way of application or by way of 'automatic forfeiture'. This is undesirable. The exception in relation to 'automatic forfeiture' should mirror that in relation to forfeiture by application.
- Where the property concerned is the profits of any criminal offence, the court is obliged to make a forfeiture order. Where, on the other hand, the property was merely used in the commission of a crime, the court has a discretion whether to order its forfeiture or not. If forfeiture is ordered as a matter of

discretion, the court may take the amount forfeited into consideration when imposing a penalty for the offence. Since 'automatic forfeiture' takes place 6 months after the offender has been finally convicted, in practice the defendant in a case where 'automatic forfeiture' is to be relied upon may be deprived of the benefit of any sentence discount occasioned by the forfeiture. Again, this inconsistency is undesirable. The law should be amended so that the sentencing court is obliged to take into account the existence of any restraining order which will lead to 'automatic forfeiture'.

- There are some circumstances in which the defendant wishes to sell property that is subject to a restraining order but which is legally owned by the defendant. In some of those cases, the DPP, as Administrator of such property, would not want to stand in the way of the sale, if, for example, a particularly good opportunity exists to convert the property into cash. The only interest that the Administrator has is the preservation of the State's contingent interest in the property to the extent to which it is forfeitable. It is clear under the present Act that proceeds of crime can be traced through any number of transactions. However, this provision does not apply to the kind of situation outlined. Therefore, it is proposed that the definition of 'tainted property' be amended to include property into which tainted property is subsequently converted.

This Bill proposes important alterations in the law. No doubt it will be controversial. But it represents a better and more rational way forward.

I commend the bill to the house.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Amendment of Criminal Assets Confiscation Act 1996

This clause makes several amendments to the *Criminal Assets Confiscation Act*.

Paragraph *(a)* inserts a new definition of 'legal assistance costs', to mean legal costs associated with the provision of legal assistance under the *Legal Services Commission Act 1977*;

Paragraph *(b)* replaces the current definition of 'proceeds' with a new definition that refers to 'proceeds' as being property derived directly or indirectly from the commission of an offence;

Paragraph *(c)* extends the current definition of 'tainted property' to include tainted property that has subsequently been converted into other property (whether by sale or exchange or in some other way);

Section 15(5) of the *Criminal Assets Confiscation Act* sets out special provisions that apply to a restraining order made in relation to a serious drug offence. Subject to various exceptions, such a restraining order cannot be revoked or varied. Paragraph *(d)* amends *Exception 2.*, which relates to the interests of innocent third parties. This now provides that a restraining order may be varied or revoked if the owner of the property satisfies the court that the property was acquired *more than 6 years* before the offence was committed and the property is not tainted. This amendment makes this provision consistent with other provisions of the Act that deal with the rights of innocent third parties and forfeiture applications made under Part 2 of the Act.

Paragraph *(e)* amends section 20 of the Act by striking out subsections (2) and (3), which relate to the application of restrained property towards legal costs, and inserting new provisions. The new subsection (2) provides that restrained property may only be applied towards legal costs if this is authorised by the court and the costs are 'legal assistance costs'. Section 20(3) provides that upon the application of the Legal Services Commission, the court must authorise the application of restrained property towards payment of legal costs if it is satisfied that it is unlikely that no other person has a lawful claim to the property. Under section 20(4), the Legal Services Commission can not make an application to the court unless it is satisfied the person has no other source of funds reasonably available to pay towards legal assistance costs. Under section 20(5), the Attorney-General must be given an opportunity to be heard on the matter.

Clause 4: Amendment of Criminal Law (Sentencing) Act 1988

This clause amends the *Criminal Law (Sentencing) Act 1988* by inserting a new paragraph in section 10. The new paragraph *(ka)* provides that, except where a forfeiture of property operates to remove any benefit obtained from the commission of an offence, a court should have regard to the nature and extent of property that has been forfeited by a person in determining a sentence.

Clause 5: Amendment of Legal Services Commission Act 1977

Paragraph *(a)* of this clause inserts a new definition of 'restraining order' in the *Legal Services Commission Act* to mean a restraining order made under the *Criminal Assets Confiscation Act 1996*.

Paragraph *(b)* inserts a new section 18B, which provides that in assessing whether a person is eligible for legal assistance, the Legal Services Commission must disregard the value of any assets that have been restrained under the *Criminal Assets Confiscation Act*. The restrained assets are also disregarded in assessing any contribution the person must make towards costs, but this does not prevent the Commission from applying to the court to have the restrained assets applied to the costs. A person's liability to pay legal costs to the Commission may be secured by a charge over restrained property, which will be released automatically if the property is subsequently forfeited.

Clause 6: Amendment of Criminal Law Consolidation Act 1935

This clause is a consequential amendment which strikes out section 287 of the *Criminal Law Consolidation Act*. This section provides that a judge may order that property taken by the police from a prisoner may be used towards a prisoner's defence, unless the property is required at the trial or is the subject of a criminal prosecution.

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

TAB (DISPOSAL) BILL

Second reading.

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

That this bill be now read a second time.

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

Leave granted.

This Bill will give Parliamentary approval to, and the necessary legislative authority for, the Government's decision to sell the South Australian Totalisator Agency Board (SA TAB) as announced on 8 February 2000.

A companion Bill, named the Authorised Betting Operations Bill 2000, will establish the necessary regulatory framework for a privately owned SA TAB business in place of the existing provisions of the *Racing Act* and relevant sections of *Lottery and Gaming Act*.

This Bill will provide flexibility for the restructure and sale of SA TAB in a number of different ways. In particular, it will be open to the Minister to agree to a sale of the assets of or the shares in the SA TAB upon it being converted to a company under the Corporations Law. To provide additional flexibility in addressing potential Government warranty and indemnity considerations, and bidder preferences regarding sale structures, the Bill also enables the Minister, to establish a new company into which assets of the corporatised SA TAB could be transferred, with the assets of, or shares in, that company then able to be sold.

These provisions—which are consistent with the approach taken in other Government asset sales—will enable the Government to manage the sale process so as to maximise the outcome for the State.

The breadth and flexibility of powers under this Bill are primarily to ensure that the potentially varying interests of bidders in a sale process can be accommodated—so that, in turn, best value outcomes can be achieved for the State.

SA TAB will be the fifth TAB in Australia to be privatised.

The Government's comprehensive review of the business has identified that, under continued Government ownership, SA TAB would, in the future, find it increasingly difficult to compete in the rapidly changing and intensely competitive Australian and global gambling markets.

Amongst other things, the Government would find it difficult to allocate scarce financial resources towards the expansion of the SA TAB, in order for it to compete effectively—at the expense of funding for core services such as health, education and public safety.

The Government does not believe that it is either prudent or responsible for it to continue ownership of SA TAB within such an emerging higher risk environment.

Any delay to the sale of the SA TAB could therefore see the value of the business to the taxpayers of South Australia diminish—through reduced and less stable net earnings and ultimately a lower sale price.

The review of the business and subsequent sales process has had regard to three broad stakeholder groups—namely SA TAB employees, the South Australian Racing Industry ('SARI') and South Australian taxpayers more generally. Each has distinct interests to be recognised and protected.

Employees

The Government has been concerned to ensure that SA TAB employees have some certainty about their terms and conditions of employment in the context of a sale, and that any retrenched employees are appropriately compensated.

The sale process will provide for a framework for dealing with all staffing issues including a requirement for potential purchasers to identify their expected workforce requirements in their bids, which will be evaluated by the Government based on a number of factors.

The Government has clearly stated that the price offered for the business will not be the only important factor in evaluating bids—other issues such as employment of existing staff and service standards will also be very important considerations.

The Government has had extensive discussions and negotiations with the Public Service Association, Australian Municipal, Administrative, Clerical and Services Union and the Employee Ombudsman regarding staff transition arrangements and the Bill reflects the key staff transition principles agreed with Employee Representatives as part of this negotiation process.

The Government is in the process of formalising a Memorandum of Understanding with Employee Representatives which outlines in more detail the staff transition arrangements to apply during the SA TAB sale.

The Government believes that the transition arrangements agreed with Employee Representatives are very balanced and reasonable, particularly having regard to employees' existing employment conditions.

South Australian Racing Industry (SARI)

A vital part of the sale process has been to establish long-term formal arrangements between SARI and SA TAB, to secure an ongoing commercial role and source of revenue for the South Australian racing sector while allowing the SA TAB to remain competitive and viable in the future.

On Friday 20 October, 2000, the Minister for Government Enterprises announced that the Government and SARI's authorised negotiating team, the Racing Codes Chairmen's Group (RCCG), successfully concluded negotiation of the commercial and financial arrangements between SARI and SA TAB post sale.

Based on a Heads of Agreement executed in June 2000, two documents have been agreed– a 'Government Agreement' which formalises the relationship between the Government and SARI going forward and a 'Racing Distribution Agreement.' The Racing Distribution Agreement between SA TAB and SARI fully documents and formalises the agreed commercial and financial arrangements between SARI and a new owner of SA TAB, to apply following the sale of SA TAB and cannot be altered by the new owner of SA TAB without SARI's agreement.

This security is enhanced by requirements within the associated Authorised Betting Operations Bill that, upon sale, the new owner of SA TAB must keep in force the Racing Distribution Agreement with SARI.

The agreed package is balanced and reasonable and, when combined with reforms currently being considered by the racing industry generally, can contribute to self-management and funding by SARI of its future operations.

Undue delays in the sale process from here will put in jeopardy the funding that SARI needs to underpin its revitalisation and moves towards self-management

Taxpayers

The fundamental driving force for the sale of SA TAB is to remove the taxpayers of South Australia from the direct commercial risks and exposures of the gambling industry.

This is not an area of business activity that the Government should be sponsoring on the taxpayer's behalf—it is neither a core area of competency nor focus of Government and, put simply, it is placing scarce financial resources at risk.

Further, a sale of SA TAB will, properly, ensure that the Government's focus is on the regulation—rather than conduct—of this gambling activity.

Interest savings on debt retired with the proceeds of the SA TAB sale will, together with the new wagering taxation regime, generate a far more secure revenue stream for the State Budget to fund critical community services.

The public also has an interest in the sale being conducted fairly and efficiently.

In this regard, Deloite Touche Tohmatsu has been appointed as Probity Auditor for the sale with a view to ensuring that public confidence is maintained in the integrity of the process. This Bill provides for the Probity Auditor's report to be tabled in both Houses of Parliament once the sale has been completed.

This measure of accountability and transparency is complemented by the requirement in the associated Authorised Betting Operations Bill that the SA TAB Licensing and Duty Agreements also be tabled in both Houses.

I commend the bill to the house.

Explanation of Clauses

PART 1
PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal. The application of the *Acts Interpretation Act* provision for automatic commencement after 2 years is excluded.

Clause 3: Interpretation

This clause contains definitions necessary for the purposes of the measure.

'TABCO' is to mean TABCO(A)—TAB as converted to a company under the *Corporations Law—see* clause 9—or TABCO(B)—a State-owned company nominated by the Minister by notice in the *Gazette*.

Conversion of TAB into TABCO(A) is to occur before a sale agreement may be made under clause 11. Transfer of assets and liabilities to the 'clean' company, TABCO(B), is an option that may be taken before a sale agreement is made.

Clause 4: Application of Act

This clause applies the measure outside the State to the full extent of the extra-territorial legislative capacity of the Parliament.

PART 2
PREPARATORY ACTION

Clause 5: Preparation for restructuring and disposal

This clause defines the parameters of what is called the authorised project—a project for investigating the best means of selling the business of TAB and preparing for the sale.

The directors and employees of TAB or TABCO are required to participate effectively in the process.

Prospective purchasers may be authorised by the Minister to have access to information relevant to a potential sale. However, personal information about employees is not to be made available except to a purchaser once a sale agreement has been executed.

Clause 6: Authority to disclose and use information

This clause authorises the disclosure of confidential information in the course of the authorised project.

Clause 7: Evidentiary provision

Evidentiary aids are provided in relation to the authorised project.

Clause 8: Relationship between Minister and TAB and TABCO in restructuring and disposal period

This clause enables the Minister to give directions to and execute agreements on behalf of TAB or TABCO as the Minister considers necessary in preparation for disposal of the TAB business,

PART 3
DISPOSAL

Clause 9: Conversion of TAB to company

Provisions contained in Schedule 1 apply for the purposes of the conversion of TAB to a company under the *Corporations Law*.

Clause 10: Transfer order

This clause provides the means for restructuring TAB in preparation for sale.

The Minister is empowered to transfer assets or liabilities of TAB or TABCO to a Crown entity.

Provision is made for the order of the Minister to deal with the consequential need to change references in instruments.

Clause 11: Sale agreement

This clause authorises the actual disposal of the business of TABCO.

Two methods of sale are authorised: a direct sale of the TABCO's assets and liabilities; a sale of the shares in TABCO.

Clause 12: Supplementary provisions

These provisions support the transfer of assets and liabilities and in general terms provide for the transferee to be substituted for the transferor in relation to the transferred assets and liabilities.

Clause 13: Evidentiary provision

Evidentiary aids are provided in relation to transfers under the measure.

Clause 14: Application of proceeds of sale agreement
This clause sets out the purposes for which proceeds of a sale agreement may be applied.

Clause 15: Tabling of report on probity of sale processes
The Minister is to table in Parliament a report on the probity of the processes leading up to the making of a sale agreement. The report must be prepared by an independent person engaged for the purpose.

PART 4
STAFF

Clause 16: Transfer of staff
If assets and liabilities of TABCO(A) are transferred by a transfer order to TABCO(B), the Minister must transfer TABCO(A) employees to TABCO(B).

Before the sale, the Minister is required to inform each TABCO employee whether the employee's position is a required position and, if so, whether it is a key position (*ie* one occupied by a person with knowledge that should be available to or passed on to the purchaser). Each employee in a required position is to be invited to elect whether to be transferred and each other employee is to be invited to elect whether to participate in a career transition program.

If the sale proceeds by way of an asset transfer, provision is made for Ministerial orders to transfer to the purchaser all employees in key positions and all employees in other required positions who have elected to be transferred.

If the sale proceeds by way of a share transfer, provision is made for Ministerial orders to transfer to a Crown entity all employees in not required positions who have elected to participate in a career transition program. Provision is made for such employees to be later transferred to the purchaser, at the joint request of the employee and the purchaser.

The clause expressly contemplates that the superannuation deed may be identified in a sale agreement as a transferred instrument and accordingly modified by the agreement.

Employees' remuneration and leave entitlements are unaffected and continuity of service is preserved.

Provision is made for retrenchment according to the terms set out in Schedule 2 of those employees in required positions (other than key positions) who do not elect to be transferred and those employees not in required positions who do not elect to participate in a career transition package.

It should be noted that an employee does not include a casual employee unless the person is a casual employee whose casual employment has been on a regular and systematic basis over the immediately preceding 52 weeks.

Clause 17: Memorandum of understanding
The Minister is required to make an order to give effect to any memorandum of understanding about employee rights entered into between the Government and any one or more of the Public Service Association, the Australian Municipal, Administrative, Clerical and Services Union, South Australian Clerical and Administrative Branch or the Employee Ombudsman about employee rights.

Clause 18: Application of Schedule 2 staff provisions
Schedule 2 contains provisions relating to employee entitlements that will have effect subject to any exclusions contained in an order of the Minister giving effect to a memorandum of understanding under clause 16.

PART 5
MISCELLANEOUS

Clause 19: Amount payable by TABCO in lieu of tax
This clause makes provision for TABCO to make payments to the Treasurer in lieu of income and other taxes.

Clause 20: Relationship of TABCO and Crown
This clause ensures that TABCO will be regarded an instrumentality of the Crown but not after it ceases to be a State-owned company.

Clause 21: Dissolution of TABCO
This clause enables TABCO to be dissolved by proclamation if it is a State-owned company and all of its assets and liabilities have been transferred under the measure.

Clause 22: Registering authorities to note transfer
The Minister may require the Registrar-General to register or record a transfer under the measure.

Clause 23: Stamp duty
This clause provides for an exemption from stamp duty for transfers under the measure.

Clause 24: Interaction between this Act and other Acts
This clause ensures that transactions under the measure will be expedited by being exempt from various provisions that usually apply to commercial transactions.

Clause 25: Effect of things done or allowed under Act
This clause ensures that action taken under the measure will not adversely affect the position of a transferee or transferor.

Clause 26: Regulations
This clause provides general regulation making power.

SCHEDULE 1
Conversion of TAB to Company
This schedule contains technical provisions associated with the conversion of TAB to a company under the *Corporations Law*.

SCHEDULE 2
Staff Provisions
This schedule contains provisions establishing employee entitlements that will have effect subject to any exclusions made by an order of the Minister giving effect to a memorandum of understanding under clause 17.

SCHEDULE 3
Amendment of Racing Act
This schedule contains amendments to the *Racing Act* consequential on the conversion of TAB to a *Corporations Law* company.

SCHEDULE 4
Repeal of Racing Act, Amendment of Stamp Duties Act and State Lotteries Act and Transitional Provisions
This schedule is to come into operation on a day to be fixed by proclamation.

It is proposed that this commencement would coincide with the commencement of the proposed *Authorised Betting Operations Act* and the issuing of the major betting operations licence under that measure.

On the commencement of the schedule:

- the *Racing Act* is repealed
- consequential amendments to the *Stamp Duties Act* and *State Lotteries Act* take effect
- transitional provisions set out in the schedule also take effect.

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

SELECT COMMITTEE ON ADELAIDE CEMETERIES AUTHORITY BILL

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

That the time for bringing up the report of the committee be extended until Wednesday 14 March 2001.

Motion carried.

SOUTH AUSTRALIAN PORTS (DISPOSAL OF MARITIME ASSETS) BILL

In committee.

(Continued from 17 November. Page 568.)

Clause 1.

The Hon. P. HOLLOWAY: Does the Treasurer have answers to the questions we raised when last we debated the subject?

The Hon. R.I. LUCAS: As members would be aware, I have placed on file an amendment to clause 12 which would provide from the proceeds from the Ports Corporation sale, should the parliament approve it, a mechanism to help fund the not inconsiderable contribution that the state of South Australia has to make to the $1.5 billion national salinity strategy which the Prime Minister and the leaders have agreed on and of which the commonwealth provides roughly half and the states have to provide the other half. As all members in this chamber have acknowledged at various stages, the Murray River is critical to this state's future, and I am sure that all members acknowledge that both dry land salinity and the Murray River issues are critical.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: It is on file. I am about to explain how this does what it is purported to do. I will not prolong a

discussion about the objective, which is in essence tackling the problems of the Murray and dry land salinity as well. It is a given that all members in this chamber acknowledge that we need to see what we can do to try to assist this now national objective. If I can put on my hat as Treasurer rather than the minister representing the Minister for Government Enterprises, the critical issue is where in the state budget we can find a lazy $100 million over the next seven years. I can assure members that we do not have a lazy $100 million sitting around able to be easily diverted to something as critically important as matching the commonwealth contribution to this objective.

Therefore, as the Premier has outlined, it is the government's intention, subject to the will of the parliament, to try to use some of the proceeds of the Ports Corporation sale to fund the government's $100 million contribution towards this national salinity strategy. We are not debating this issue now, and will do it under clause 12, but I wanted to explain that the amendment to clause 12 is the mechanism through which we can achieve that. Assuming that the legislation goes through, we successfully conclude the sale of the Ports Corporation and we receive a lump of money into state proceeds, the government would intend that up to $100 million of those proceeds in the first year would be paid in essence into the equivalent of a bank account. That would be an up front payment of unfunded superannuation, and it would then mean that over the next seven years we have in essence a stream of payments that we were going to pay into that bank account, or the unfunded superannuation, as a quantum each year as part of a 40 year strategy to repay our unfunded superannuation liabilities. Each year in the budget we would have to pay a certain contribution into unfunded superannuation.

Because we have made an up front contribution of $100 million over the next seven years, we will be able to reduce our annual contribution to paying unfunded superannuation by an equivalent. It will not be exactly this, because it will depend on the payments we are required to make under the salinity strategy, but let us say it is roughly $14 million a year for seven years, which comes out just under $100 million. So, each year you would make a payment of $14 million less than had previously been budgeted into unfunded superannuation. Therefore, for each of the seven years, you have $14 million which would have been budgeted to go into unfunded superannuation which could now go to be spent on the salinity strategy. So, it is just a direct replacement of one expenditure item in the budget, which is unfunded superannuation, to be replaced by the salinity funding.

My understanding is that it will not be as even as $14 million a year. There is still some discussion, as we do not know exactly how much we will pay in each year. In some years it might be as high as $20 million and in other years it might be lower. We are told that over seven years it will come to just under $100 million in toto to go into the salinity strategy. The reason why the mechanism of the unfunded superannuation is proposed to be used is that, all other things being equal, this way, if we are looking at balanced budgets for each of those years, it does not mean that we actually see a $14 million deficit in terms of bottom line accounting.

Because of the way the accounting principles operate, when the money comes into the account the proceeds are treated as an abnormal, and you therefore do not see a bottom line benefit to your non-commercial sector deficit. However, when you spend the money, even though it is the same amount of money over a seven year period, it does hit the bottom line non-commercial sector deficit.

For all intents and purposes, to a non-accountant that may seem unfair—that is, when the revenue comes in it does not assist the non-commercial sector deficit, but when the money goes out it actually hurts the non-commercial sector deficit—but nevertheless they are the accounting principles within which we are required to operate.

Using the procedure of the unfunded superannuation you can achieve exactly the same purpose without being hurt on the bottom line of the deficit. Why is it a problem to be hurt on the bottom line of the deficit? Clearly, from the state's viewpoint, the credit rating agencies and other economic commentators look at and make commentary about whether or not the budget is being balanced. It is important, whomever is in government—Labor or Liberal—that we balance the cash accounting budget—and this government is doing that—but the goal is to try to not only balance the cash accounting budget but also in an accrual accounting sense.

It is that message that is important for the state's financial reputation—that we are seen to be spending no more than we are earning. In the government's view it is in the state's best interest not to create a set of circumstances where the state is penalised for what we might think are unfair accounting principle reasons for trying to fund the salinity strategy.

The Premier has already made a public statement. I am authorised, on behalf of the government, to indicate that the government is fundamentally committed to it. The government has already signed off at COAG, and it will do so on a series of agreements. We clearly have no incentive at all to use this money for any purpose other than the payment of the salinity strategy. That is an absolute commitment from the government, that it go to the salinity strategy. We may not get to clause 12 this evening, depending on progress through the other clauses, but it is important that we put that issue to the committee at an early stage.

One of the other questions asked by the Hon. Mr Holloway was the issue in relation to legislation. The Minister for Government Enterprises has given me the following statement, which on his behalf I am pleased to read to the Council:

> Unlike the old ETSA legislation, there is no specific provision in the SA Ports Corporation Act which prohibits the sale of Ports Corporation without parliament's consent. Both during and following the completion of the scoping study, options for the divestment of Ports Corporation were considered comprehensively.
>
> Legal advice is that an option such as was adopted in the SA Water outsourcing could be undertaken without legislation. However, the optimal model to provide the best return to the state and other stakeholders is considered to be the legislative approach as provided for in the bills under consideration. The legislative package also contains a number of protections that will be of benefit to stakeholders. This position has been confirmed by further legal advice this week.

The Minister for Government Enterprises has provided me with responses to questions that were raised by a number of members. The first issue relates to MOU availability for certain staff. The MOU can be tailored on the basis that it has been entered into for staff transition purposes only and that it was negotiated with and agreed to by both the MUA and AMOU. Both unions have now agreed to its release. We have a copy of the MOU and are prepared to table it in a moment.

In relation to the issue of the number of surplus staff, the government's position is that ultimately that is an issue that will be determined by the potential bidders and new operators. As I think I indicated, it is a relatively lean and mean

operation, I think some 150 or so staff. So we are not talking about an organisation with hundreds of staff or, as we were with the electricity businesses, thousands of staff. We are talking about a relatively small staffing operation of 150 or so full-time equivalents, and ultimately it will depend on the shape and nature of the possible bidder and owner.

When we last discussed this matter, I believe I indicated that, if a particular company is investing for the first time in the management of ports and it has no expertise within the company (that is, corporate staff and support staff), the prospects are that it will retain more staff than a company which, if a successful bidder, already has a considerable presence in this broad industry sector. That is, if the company already has a marketing person involved in ports management generally, or someone who is handling human relations, and those sort of issues, it may well be that it believes that it will not need two human relations managers or two marketing managers, or the like. So, with the corporate functions, in particular, there may be scope for some reduction. It is impossible to say that X staff are targeted in order to reduce numbers. As I have said, it depends on the nature of the potential bidding party.

The Hon. Mr Cameron asked a question about the targeted divestment price. The government's view, consistent with previous privatisations, is that the targeted price should not be made available publicly for the following reasons: to try to ensure that we protect the sale price during the bidding process; and to try to encourage debate on the economic development and transport chain objectives, that is, price is only one of the four sale objectives and the final decision will need to consider the price in the context of these other objectives, as well as other normal evaluation criteria associated with the divestment process.

The government has consistently said that it was not interested in a fire sale of its assets. As I have said, the government has adopted a position in relation to asset sales. The Casino is a perfect example. When we went to market two or three years ago, the prospective offers were nowhere near a reasonable price for the asset and the government withdrew the Casino from sale at that price.

I am advised that the sale price range is obviously dependent on a number of market factors. Again, one need only look at the electricity experience to know that international and national factors at the time you go to market impacts on the potential sale value of any asset. The Ports Corp would be no different in that respect.

Questions were raised about the Quiggan Spoehr and Leadenhall analyses. The minister has advised me that the Quiggan Spoehr report of May 1998 incorrectly stated that the government would need to get at least $500 million for the Ports Corporation to warrant the sale, that is, its approximate retention value. Leadenhall repeated the Quiggan analysis in June 1999 using corrected figures and more appropriate interest rates which gave revised Quiggan methodology break-even sale figures in the range $100 million to $300 million depending on the relevant interest rate.

Regarding the details and value of the assets which were divested and which caused Leadenhall to say that the 1997-98 revenue was over-estimated by 34 per cent, the Ports Corporation advises as follows. During the 1997-98 financial year, the corporation divested a number of large assets, namely, a bulk loading plant situated at Port Adelaide, Port Lincoln, Thevenard, Wallaroo, Port Giles and Port Pirie. The total sale value of these assets was $14.9 million and their book value at the time of the sale was $3.174 million. Regarding the wool store situated at Gillman Port Adelaide, the total sale proceeds for this transaction were $6.65 million. The book value of the wool store at the time of the sale was $5.814 million and the associated land value was $0.570 million.

In addition, a large parcel of land relating to grain storage facilities was also sold to SACBH. This transaction was part of a total package of land located at Port Adelaide, Port Lincoln, Thevenard and Port Pirie sold to SACBH. The total book value of these land parcels was $2.269 million and the sale contract for the land parcels totalled $3.162 million. The corporation's annual report for the 1997-98 financial year reported an actual total income level of $38.14 million, that is, 34 per cent less than that quoted in the Quiggan report. Leadenhall rounded this to $38 million.

One member asked a question in relation to whether a more accurate figure is available on the cost savings to growers than $4 to $12 per tonne and what percentage of growers would benefit (I think that was the Hon. Mr Sneath). The minister has advised me that the Deep Sea Ports Investigation Committee report dated January 1999 showed that five alternative combinations of ports upgrade across South Australia would all be economically beneficial having NPVs, that is, benefits net of cost expressed in discount of present value terms in the range of $59 million to $65 million in round figures.

The report also dealt with the distribution of benefits to growers, and a newsletter was published and distributed throughout South Australia showing benefits of up to around $10 depending on which export port was chosen. Benefits in the range $4 to $12 have also been quoted by industry representatives, including the chairman of the Deep Sea Port Investigation Committee.

I am also told that, as it costs around $40 to $50 for a farmer to sell a tonne of grain internationally, depending on the distance from the port, Ports Corp charges are only $2 to $3 at the most within this overall cost. It is a complex matter to determine the ultimate cost savings to growers when the whole transport chain settles down following a deep sea ports upgrade.

Another member asked a question about how much would be spent on rail. The minister advises that, of the $30 million to 35 million government contribution, $7 million is being earmarked to support infrastructure in which an allowance has been made for rail upgrades and improvements. The government is hopeful of negotiating a position with a private investor to contribute to the development of rail in the vicinity.

Another member asked a question in relation to process on Outer Harbor grain internal decision. The minister advises that an agreement between the Grains Council and the Minister for Government Enterprises on behalf of the government signed on 21 October requires the Grains Council to advise the government of its preferred grain handler for the new Outer Harbor grain export facility, with best endeavours by 30 November 2000.

Another member asked a question about staff numbers at Klein Point, Port Giles and Wallaroo. The minister advises that Ports Corp does not have any permanent staff located at the ports of Klein Point, Port Giles and Wallaroo. However, on a full-time equivalent basis for 1999-2000 there were 7.8 people employed in relation to these ports, comprising both casual and permanent staff. Casual staff are used for vessel mooring activities, and permanent staff were associated with

pilotage, mooring and maintenance activities. Casual staff are locally based while the permanent staff were from Port Adelaide and Port Pirie. I think and hope that answers most of the questions members asked during—

The Hon. P. Holloway: Did you cover the third river crossing?

The Hon. R.I. LUCAS: Well, the only note I have on that is that someone asked a question on further information on the third river crossing. Minister Laidlaw has advised that there is nothing further to add to the answer provided by me, evidently, in the Legislative Council on 17 November this year. I hope that canvasses at least the questions that were raised when last we met.

The Hon. P. HOLLOWAY: I thank the Treasurer for his answer to those questions as far as they go. There may have been one or two others in relation to other matters, but at least he has answered the substance of them. There is one further question as a result of the further information he has provided. I think the Treasurer said that the Grains Council would be determining the new operator of the grains port with best endeavours to finish by 30 November. I think that is a summary of what the Treasurer just said. Given that that is tomorrow, is the Treasurer in any position to say whether the question of who will operate the new grain terminal has been resolved?

The Hon. R.I. LUCAS: I am told that as of tonight it is still unresolved. I might highlight it was with best endeavours, and it may well be that best endeavours were not achieved.

The Hon. P. HOLLOWAY: There are other questions I would like to raise at this stage while we are still on general questions. Yesterday the Auditor-General brought out his report in relation to the electricity business disposal process and the engagement of advisers. Obviously that should have some relevance to the appointment of advisers in relation to this particular sale. How many advisers have been appointed in relation to this sale and has their appointment complied with Treasury guidelines?

The reason I ask that question is that one would expect that the appointment of advisers would comply with the guidelines, but we know in relation to the ETSA advisers that that was apparently not the case in respect of those over $1 million. What information can the Treasurer provide in relation to the appointment of advisers for this sale process?

The Hon. R.I. LUCAS: I am advised that the principle advisers are Arthur Andersen in relation to corporate finance; in terms of legal advice, Corrs Chambers Wesgarth with Kelly and Co.; in relation to property advice, Colliers and Jardine; Chalk and Associates in relation to public relations; and Nolan Rumsby in relation to planning issues. There may well be others but they are the principals. I think, as we have had this discussion before, it is useful to repeat an aspect of it briefly again: that is, under the current structure of government arrangements there is a Public Finance and Audit Act and there are Treasurer's instructions which are mandatory but, as I explained in question time a few weeks ago, guidelines are established by portfolios to apply to people who work within particular portfolios. Regarding Treasurer's guidelines, even though the Auditor-General might wish them to have wider operation, crown law advice is that they are really guidelines that relate to Treasury operations. The respective other portfolios may or may not have their own guidelines, which might be modelled on Treasury guidelines but in many cases are not. I am not familiar with what guidelines operate within government enterprises.

I might also say—I omitted to mention it today—that one of the interesting things in relation to the Auditor-General's dissertation on Treasurer's guidelines is that, when you actually look at these guidelines, which operate to consultancies within Treasury, you see that they only contemplate consultancies up to $1 million. There is no provision in them which directly relates to consultancies greater than $1 million, and the Treasury consultancies were greater than this. This is an issue that the Auditor-General has not addressed in his commentary on the consultancies in the electricity debate. That is a diversion: I am not in a position, as I was not involved, to be able to go through all of the detail of the guidelines tonight. I am sure the minister would wish me to say that the usual practices in terms of the appointment of consultants have been adopted but I would need to refer the honourable member's question to the minister and bring back a reply.

The Hon. P. HOLLOWAY: Given that we are talking about the sale of an asset, I would have thought that it was entirely appropriate and sensible that Treasury guidelines should apply to such a matter. If we were talking about the appointment of a consultant in relation to the operation of the ports department—

The Hon. R.I. Lucas: You do not understand how they operate.

The Hon. P. HOLLOWAY: I know that the Treasurer is saying that, but we are not talking about the appointment of a consultant to deal with various aspects of the operations of ports. We are dealing with consultancies that are to bring about the sale of this particular asset. I would have thought there should be fairly uniform guidelines right across the whole public service in relation to such matters. I can understand why there might have not been in the past, because we were not in the habit of off selling many of our assets. But I would have thought that in relation to matters of this importance and of this scale—

An honourable member interjecting:

The Hon. P. HOLLOWAY: We did sell some assets but nothing on the scale that this government has—

An honourable member interjecting:

The Hon. P. HOLLOWAY: We are talking about the state public service. I would have thought that the procedures—

An honourable member interjecting:

The Hon. P. HOLLOWAY: I would have thought that it was common sense to have uniform guidelines for these matters. The fact that the Treasurer just made the comment in relation to the Auditor-General's report on the electricity sale process means that the obvious implication is that it is absurd that one should require quite strict guidelines for the appointment of consultancies below $1 million but have none at all for consultancies above that. For the larger consultancies one might expect that the Cabinet would be involved and there might be other factors for something on that scale. One would think that the guidelines that applied for smaller matters would at least be a very good basis on which to analyse the proposals in the first instance. That is certainly my interpretation of the point the Auditor-General is making in his report. Nevertheless, I will not get too far down the track with that. Will the Treasurer say whether further consultants are to be appointed in relation to this sale process?

The Hon. R.I. LUCAS: My advice is that no major ones are currently contemplated. As I indicated earlier, I seek leave to table copies of the memorandum of understanding between

the government, the Maritime Union of Australia and the Australian Maritime Officers Union.

Leave granted.

The Hon. R.I. LUCAS: I do not disagree with some of the aspects of what the honourable member has said. What I have said in response to the Auditor-General's Report is that the experience with the electricity debate demonstrated that the guidelines that apply to major projects need to be brought into line with the 21st century for the public sector in terms of managing these sorts of projects. They do not contemplate success fees, which have been common practice in the commercial sector for the last 10 years or so.

The deficiency which I have highlighted, which the Auditor-General has not picked up in his report, is that the guidelines refer to consultancies of up to only $1 million, which means technically that the guidelines do not apply to consultancies of greater than $1 million. That issue needs to be contemplated by the government as these guidelines are reviewed. The view of the honourable member that there should be either a consistent set of guidelines or greater consistency in terms of the employment of consultants is one for which I have some sympathy.

We have set in place a review of the guidelines as a result not only of the electricity experience but also of the National Wine Centre. We looked at the guidelines that apply and crown law advice is that, whilst the Treasurer's instructions are mandatory, guidelines do not have the force of law. They are not mandatory. They are guidelines for use by officers in these areas. Again, that is an issue that the government will need to contemplate, not just whether or not they should be consistent across the board but whether or not they should be mandatory. Crown law advice very firmly is that they are not mandatory. Contrary to the impression that might be gained from the Auditor-General's Report, they are guidelines for the appointment of consultants within public sector agencies.

The final point that I would make is that, in a number of these areas, we are reviewing the guidelines, but some of the guidelines that apply to the appointment of consultants were issued by now defunct public sector agencies. The government management board was abolished by the previous Labor government in 1992. We are told that circulars issued by the now defunct government management board still apply to public sector consultancy arrangements. The reviews done by the Auditor-General into the National Wine Centre, the electricity assets sales and a number of other areas have highlighted matters that we need to look at in terms of the appropriateness of government management board circulars applying to such arrangements, and other issues as well.

I have directed that officers from Treasury, crown law and other areas of government work together to try to consolidate the sort of guidelines that apply to these issues right across the public sector to address some of the concerns that the honourable member, the Auditor-General and others have raised. As I said, I have some sympathy in relation to some of these issues as we look to consolidate a sensible set of guidelines, or whatever we might call them, that would apply to the appointment of consultants.

The Hon. NICK XENOPHON: I have several questions for the Treasurer as a result of contact that I have had with two grain growers. In fairness to them, it was important to raise these questions, and the Treasurer attempted to answer questions that I put to him some two weeks ago on this issue. Their principal concern relates to clause 12(1)(b) of the bill.

Given the answers to the Hon. Sandra Kanck to questions directed to the Attorney-General on 16 November, where it was outlined with respect to the grain industry and Outer Harbor funding arrangements that the split-up of costs would be in the vicinity of $19 million for the berthing and dredging at Outer Harbor, $8 million for deepening Port Giles and strengthening Wallaroo, and $7 million for Outer Harbor on-land support and infrastructure, totalling $34 million, the concern that these two grain growers have expressed, which they believe is shared by a number of others, is that the Outer Harbor proposal will not be advantageous to grain growers.

In some respects it could well be an uneconomic asset and they have referred me to the final report of the South Australian Deep Sea Ports Investigation Committee of January 1999. After a careful assessment process of some 16 options, that investigation came up with a number of proposals and, in terms of the value of those proposals, they varied from $49.1 million for Wallaroo to $65.4 million for Port Giles and Adelaide inner harbor in part. Outer Harbor was not part of that consideration. When the Deep Sea Ports Investigation Committee handed down its report, the Outer Harbor proposal was not within the ballpark in terms of an appropriate proposal.

The concern of these farmers is that it will be a dead-duck asset in terms of its use by the grain industry, that it is not an efficient way of dealing with it, and that it could almost be a stranded asset in the absence of very substantial infrastructure costs, which the Treasurer has referred to in part, with respect to appropriate rail and other links for Outer Harbor. Hence my question to the Treasurer: has a cost benefit analysis or at least a feasibility study been undertaken with respect to the Outer Harbor proposal, given that it does not appear to have been one of the final options that was considered by the Deep Sea Ports Investigation Committee as recently as January 1999 when it produced its report? That is causing great concern for these and I believe other farmers.

The Hon. R.I. LUCAS: I am advised that in the past there had been some claims by members in the grain industry about the cost of the Outer Harbor option being $79.6 million. The current proposal is unrelated to these previous estimates, which the government understands were based on different parameters from the current proposal, which is to be a modern loading facility not unlike the one recently constructed in the port of Melbourne. The Grains Council, which was in charge of the Deep Sea Ports Investigation Committee report, now supports the Outer Harbor proposal. If I understand the honourable member correctly, if the preference of the two grain growers to which he refers was the Port River option, which was originally being contemplated—

The Hon. Nick Xenophon: They weren't saying that.

The Hon. R.I. LUCAS: I will not go on to conclude that, then. In relation to whether a detailed business case has yet been concluded in relation to Outer Harbor, some initial work has been done in relation to these issues but you could not characterise it as a final detailed business case having been concluded. The considered view of all those is obviously not that this is going to be a stranded asset, an uneconomic asset.

The advice that the minister has taken is obviously that this will be an asset of some value to the potential operators of the ports, which not only will benefit them in the commercial sense but also will be a commercial benefit to grain growers throughout the state. So, I cannot give the honourable member the results of a detailed business case of the Outer Harbor proposal.

The Hon. NICK XENOPHON: In response to the question asked by the Hon. Sandra Kanck with respect to the costs, the answer given was that there was a cost of broadly

$19 million for the berth and dredging in Outer Harbor. That is not an insignificant amount of money. Given that the Treasurer is a cautious man in financial matters, I am surprised that he is saying that there has not been a comprehensive business case or that only some initial work has been carried out in terms of the cost benefit analysis, given the work carried out by the Deep Sea Ports Investigation Committee in January 1999.

I understand that they have been given some different parameters. First, is the Treasurer concerned, at least to some extent, that there has not been a thorough cost benefit analysis of the economic benefits of a deep sea port at Outer Harbor? Secondly, to what extent have the parameters been altered in relation to any change of heart on behalf of the committee that looked into this issue previously? Reference was made to something similar to Melbourne. For the sake of these two constituents who are grain growers, can the Treasurer provide some further detail?

The main emphasis of my question is that it does seem extraordinary that an expenditure of $19 million has not been the subject of at least some comprehensive analysis to see whether it is worth while, as distinct from other options at, say, Wallaroo, Port Giles or wherever.

The Hon. R.I. LUCAS: I can only repeat that the Grains Council comprises people who have been involved in this process right through that Deep Sea Ports Investigation Committee process, which I understand took some time prior to the report being released in early 1999, so these people have lived with this for quite some time. The minister's advice to me is that they support this option, and support it strongly.

The government (through the Minister for Government Enterprises and his team, who have been involved in this on a daily basis for quite some considerable time) also supports this option. It is not true to say that no analysis has been done. As I indicated, some analysis has been conducted, but it would not be accurate to say that a comprehensive, detailed business case had been concluded in relation to these issues.

The Hon. Nick Xenophon: Doesn't that concern you, though?

The Hon. R.I. LUCAS: It is a question of managing a process. I am sure that the minister is working his way through all these issues as they have been raised on a daily or weekly basis. In the end, one would always want to have as much information available as is possible. I can speak in relation to the electricity process: there are occasions when you come to junction points where you have to make decisions. You have to be confident, first, that you have enough information with which to make that decision.

In the end you might like to have another three months or six months to get 100 per cent of the information you would like to have but, if you leave everything for that long, you might never get the business to the market. In the case of electricity, for example, we had to make judgments about balancing the level of information required with the time involved in getting a particular project or business to market.

Of course, there is a threshold level. You must have sufficient information available to be able to make a sensible judgment about whether or not the proposed policy is an appropriate course. That is a minimum position, and I am sure that the minister has that plus some information for him to have made the judgment on behalf of the government. I am sure that if we had an extra six months or 12 months to collect 100 per cent of the information that might be possible if we had unlimited time, obviously we would have some greater degree of comfort in terms of making the decisions.

The minister, I am sure, is confident that he had enough information, based on advice from people in the Grains Council, people who have been working on this issue for years, the expertise that he has available and the consultancies available, people within PortsCorp, people within his own Business Enterprises Advisory Unit—that all that advice came together supporting this particular point of view, and that is what the government is proceeding with.

The Hon. NICK XENOPHON: The Treasurer points to quite a comprehensive process. When was the option for a deep sea port at Outer Harbor first comprehensively considered? Is it a number of months or is it only something that has arisen recently?

The Hon. R.I. LUCAS: I cannot be precisely accurate, but I understand that it was about August this year. So, this option has been considered for three or four months in some fashion by the minister and his team.

The Hon. NICK XENOPHON: I thank the Treasurer for that frank answer, but that concerns me even more because it seems that this is a last minute option when one considers that the Deep Sea Ports Investigation Committee has looked at a number of ports. In relation to the drafting—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: Well, when we consider the—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: I think the Treasurer is talking about the speed of the Casino bills. I think the government has a little bit to do with the speed at which legislation is dealt with. So, that is a somewhat disingenuous remark by the Treasurer, but I am sure that he will be happy to deal with my Casino bills in full by tomorrow.

The Hon. R.I. Lucas: Expeditiously.

The Hon. NICK XENOPHON: Expeditiously, as well as the Gambling Industry Regulation Bill, which has been—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: You don't know about the second one. There you go.

The Hon. R.I. Lucas: One out of two isn't bad.

The Hon. NICK XENOPHON: One out of two. The point needs to be made—and I am not being critical of the Treasurer, because this is not his primary—

The Hon. R.I. Lucas: Hear, hear!

The Hon. NICK XENOPHON: Hear, hear, he says. This is not his primary bill. He is here to pick up the pieces for the Minister for Government Enterprises, but it seems to me to be quite extraordinary that this proposal for Outer Harbor has been dredged up in the past three months when a number of other proposals have been considered over a number of years. Outer Harbor was not even on the radar screen when you look at the work of the Deep Sea Ports Investigation Committee. This seems to me to be an extraordinary decision-making process given that this has been on the radar screen for only the past three months.

My question to the Treasurer regarding clause 12(1)(b), which refers to 'work to deepen, extend or clear a harbor or port', is: is it the government's position that the proceeds will definitely be applied to Outer Harbor? Will there be a further process of assessment and consultation? To what extent is the government absolutely locked into Outer Harbor given that this seems to be a very recent proposal and, some would say, not properly considered in the context of other proposals that have gone through a much more extensive process?

The Hon. R.I. LUCAS: To set the honourable member's mind at rest, I am advised that the issue in relation to Outer Harbor will be a condition of sale. So, in the documents—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: I was hoping it might have. The honourable member asked whether there was flexibility and whether, having done further investigation, it might be changed to something else. My advice is that it will be a condition of the sale that, when there is a successful bidder, they will be required to do it. It will be compulsory, mandatory: they will be forced to.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Yes, it will be a condition of the sale at Outer Harbor. I thought that I answered the honourable member's question. I might have misunderstood his question. If I have, I crave his indulgence. He can explain how I have got it wrong.

The Hon. P. HOLLOWAY: It may well be in the sale agreement, but I assume that there is nothing in legislation that specifically requires the government to proceed with this project. Is that correct?

The Hon. R.I. LUCAS: I understand that is correct, but I am not sure what members are suggesting. There has been a lot of heartache, as I understand it. I have not been involved in the process, as all members know, but I have watched the furrowed brow of the minister over many weeks of discussions to get to this stage. He has gone through a long and tortuous process to arrive at a situation where a whole variety of people and interested parties support this proposal. If members are suggesting or implying that, having done that, on the day following he would walk away from all of that, I ask them to consider the practicality and the reality of what they are suggesting.

The government's intention, should the legislation pass the parliament, will be to move expeditiously through the sale process. I cannot envisage or contemplate any circumstances where the minister, having in essence got the agreement from lots of parties who were expressing quite vigorous views (privately and publicly) about this whole issue, would seek on the day afterwards to start World War III with everyone over this issue. If one thinks about the commonsense of what is being suggested, I am not sure where members are coming from.

The Hon. P. HOLLOWAY: Let me suggest one possible reason. The new operator of the grain terminal at Outer Harbor has not yet been determined. We were told that, under best endeavours, that decision was due to be determined by tomorrow. If that is not determined satisfactorily for all parties, there may be problems. However, I will not pursue that further in my final contribution to clause 1.

I just wish to enforce the point that the Hon. Nick Xenophon has made through his questioning. Remember: we will be the only state in Australia that will not control its ports. Even in Victoria, where some ports have been sold, the state government still controls the main terminal of Melbourne. So, we will be alone in this country in losing the control of our ports if this bill passes. What I find extraordinary is that this may happen with the passage of this bill later this evening without there being any major comprehensive investigation.

There has been a series of quickie reports that have looked at individual matters that are vaguely related to the sale. They have looked at some options or parts of options. One report looked at the environmental consequences of dredging part of the river, but there has been no comprehensive investigation of the benefits that would come from either retaining or selling the ports. I find that quite extraordinary, and I do not think it would happen in any other parliament in this country.

The Hon. NICK XENOPHON: Further to the question, some time ago I asked whether the government is locked into Outer Harbor. The Treasurer said that with respect to any purchase the development of Outer Harbor was a done deal in many respects. Does the proposed sale agreement allow any flexibility? If the successful purchasers go to the government and say they made a mistake and they think they should be developing a deep sea port somewhere else, what scope exists for an amendment of the agreement with the consent of all the parties?

The Hon. R.I. LUCAS: I do not have the Minister for Government Enterprises here this evening, but I have the next best thing in the advisory team. I can only repeat that the minister's position is that it will be a condition of the sale that it be built there. It is the minister's position—and he speaks on behalf of the government—that that aspect of the sale agreement will be quite prescriptive. If one wants to look at what-if scenarios, one could ask what if a future parliament changes its mind and legislates in a different way? There are a variety of what-if scenarios. I outline to the honourable member that, on behalf of the government, the minister is saying that the sale agreement will be quite prescriptive and will require the successful purchaser to do these things at Outer Harbor. I am not in a position to be able to say too much more to the honourable member if that is not sufficient to satisfy him.

The Hon. NICK XENOPHON: The Treasurer will be pleased to hear that this is my final question. Given the member for Schubert's passionate advocacy of the Outer Harbor option, does the government propose to change its name to Port Ivan or Port Venning?

The Hon. R.I. LUCAS: I am delighted that that is to be the honourable member's last question on clause 1. I do not think he really wants me to respond to it.

Clause passed.

Clauses 2 to 7 passed.

Clause 8.

The Hon. SANDRA KANCK: I put on record that yesterday I indicated that I did not want to proceed with the bill because I wanted to get some feedback from the Farmers Federation in relation to the questions I asked a week and a half ago. I was particularly concerned about the prospect of the new owner on-selling the ports, and I received some answers about this. I was not entirely satisfied with them. Nevertheless, we asked the Farmers Federation what it thought, because I was prepared to move an amendment to put into effect what the government had said in its answer, but the Farmers Federation has indicated to me that it was satisfied with the government's reply.

I take on board the Hon. Nick Xenophon's comments in the debate on clause 1. I have had one letter from one farmer copied to me expressing some concerns. When any of us are dealing with legislation it is difficult to speak to every individual person in an organisation, and at a certain point one has to trust the executive of the organisations that are the key stakeholders in a piece of legislation to have got it right in consulting with the members. So, while I was considering getting an amendment drawn up, in light of the feedback I have received from the Farmers Federation I will not now be doing that and will accept the clause as it is.

Clause passed.

Clauses 9 to 11 passed.

Progress reported; committee to sit again.

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 8 November. Page 347.)

The Hon. T.G. ROBERTS: The opposition supports the legislation. The stakeholders are congratulating the government and patting it on the back for something that it has been neglecting for some considerable time. There is a feeling that the new minister has grabbed the issue by the throat, sorted out some of the problems that have been around for a considerable time, consolidated the construction industry long service leave issues and now has put together a bill which will go through both houses and which finally will come into effect.

The long service leave building industry legislation established a portable long service leave scheme for construction workers, and since 1987 the scheme has operated under the Construction Industry Long Service Leave Act. The scheme enables construction industry workers to become eligible for long service leave based on service in the industry rather than on service to a single employer. For some industries that makes sense, especially considering the transient nature of the construction industry.

Construction industry employers who specialise in construction have skilled teams of workers who travel from place to place and from city to city following the construction sites. In a lot of cases they move from employer to employer, but they could spend their working lives in the construction industry. Prior to the consolidation of the act, an individual employee could work for a myriad of employers and remain in the industry but not collect the benefit of long service leave.

The amendments featured in the bill make the act more equitable and reinforce consistency with certain provisions in the Long Service Leave Act. They include removing the capacity of working directors to claim retrospective benefits and to provide benefits based on contributions to the Construction Industry Long Service Leave Fund. They also include an increase in the contribution paid by employees. The contribution has changed over time, and after actuarial advice there is now a changed contribution percentage and an increased chance that the scheme will be more successful based on those changes.

The bill reduces the period of allowable absence from three years to two years for those workers with fewer than five years of accrued service, which in effect reduces the long-term liability of the fund. It follows the working life of an individual within the industry. In a lot of cases individual members contract to a major employer for a specific site which can run for 18 months to two years. We do not have too many of those in South Australia, but on big construction sites such as Roxby Downs or some power stations these sites can run for at least two years.

In a lot of cases special negotiations increase working days to 12 hours, and in some cases individual members work for six or perhaps even seven days a week over a long period (with the appropriate breaks, of course). Then, for taxation or personal reasons, employees drop out of the industry to take on less arduous work and find themselves some time later looking at getting back into the industry. Working in this industry is cyclical. The bill reduces the period of allowable absence from three years to two years, recognising that an absence of three years from an industry is the same as abandoning your employment.

Another amendment is that the previous long service leave payment recognition is to be restricted to the period of service in the construction industry by making a pro rata payment to workers with less than seven years service entitlement; and service recognition for an absence resulting from a work related injury is to be limited to two years. An employee or WorkCover payment of income maintenance will not constitute remuneration paid to construction workers for which a levy is payable. This is another limitation or change to the act which falls into line with a lot of other industries.

There are a number of other minor changes to the act. One enables workers on allowable absences to be credited with a corresponding period of service. There is reference to annual leave, sick leave, public holidays, rostered days off worked, and other industry allowances such as the income maintenance components of ordinary weekly pay, which all make up the pay of an ordinary week for somebody in the construction industry. Long service leave is not included and as such the fund meets the cost of service credited while a worker is on long service leave.

This bill tidies up the act and makes some changes. As I said, it has general agreement from trade unions and employer organisations. We commend the new minister for pulling it all together and for the professional way in which negotiations have been carried out. I think that all parties—and the minister can disagree with me if he likes—wish it a speedy passage.

The Hon. R.D. LAWSON: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. M.J. ELLIOTT: I believe the issues have been adequately covered in previous contributions and I indicate the Democrats' support for the bill

The Hon. R.D. LAWSON (Minister for Disability Services): I thank honourable members for their contributions and expressions of support for this measure. I indicate that SA First, through the Hon. Terry Cameron, has indicated its support for this measure, which is timely and agreed upon by both the employer and employee representatives on the board of the Construction Industry Long Service Leave Fund.

Bill read a second time and taken through its remaining stages.

ELECTRICAL PRODUCTS BILL

Adjourned debate on second reading.
(Continued from 9 November. Page 411.)

The Hon. SANDRA KANCK: This bill is essentially a refurbishing of the Electrical Products Act (which was originally passed in 1998) to bring it into line with changes in the electricity industry and consumer expectations.

The Hon. T.G. Roberts: Privatising.

The Hon. SANDRA KANCK: I think this is an upshot of privatisation in many ways. As vocal advocates of the consumers' right to know, we wholeheartedly support the labelling provisions in this bill. The creation of offences for misleading labels will help ensure the efficacy of the labelling provisions. We are particularly pleased to see that the bill requires minimum energy performance standards to be

introduced for electrical products sold in South Australia. It will allow consumers to make a more informed decision when making a major white goods purchase. In being able to make such an informed decision, the possibility is created of some small reductions in this state's increasing greenhouse gas emissions.

The Democrats believe that, in the longer term, products with an efficiency of less than three stars should not be sold. I realise that at the present time the white goods industry would not be at all prepared for that, but in the longer term it is something that it ought to be aware of and made accountable for.

The empowerment of the technical regulator to prohibit the sale of dangerous electrical products is sensible, and the provision for repair, replacement or refund of items that have fallen into this category is a just move. With the corporatisation and privatisation of ETSA during the 1990s, various administrative powers previously exercised by the trust were transferred to the minister, and it is now appropriate that these powers are conferred on the technical regulator. The incorporation of administrative reporting, enforcement and evidentiary provisions similar to other pieces of legislation is another positive benefit from the updating of this legislation and I indicate that the Democrats will be supporting it.

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

RACING (PROPRIETARY BUSINESS LICENSING) BILL

Adjourned debate on second reading.

(Continued from 28 November. Page 626.)

The Hon. P. HOLLOWAY: I rise to oppose this bill. Given that a number of other members on this side of the Council have spoken on this matter I will not contribute at great length; however, there are a couple of points I want to make. The first thing that concerns me about this bill is that, like so much other legislation the Olsen government puts forward, it is not really clear what we are considering. We saw earlier tonight in debate on the ports sale bill that really there has been no proper analysis of the alternatives to development of the ports. Nonetheless, this government has decided to blindly push ahead with the sale.

In relation to proprietary racing, we really must ask: what exactly are we approving? There is no doubt that what this bill is really about is the privatisation of racing. Under not just this bill but the TAB sale bill, which is about to come before the Council, it is quite clear that the Olsen government wishes to get right out of the business of racing and make it a private venture. Perhaps even more concerning to me is that it is also clear that the government intends to allow a substantial extension into new forms of gambling under its combined changes without parliament being made properly aware of—

The Hon. R.R. Roberts: Interactive gambling, too.

The Hon. P. HOLLOWAY: I will say a little bit more about interactive gambling later. I guess all of us have had these proposals that TeleTrak has put in relation to proprietary racing now for some years. I guess most of us would have files that are getting very thick with all the newspaper cuttings and other information that has developed in relation to proprietary racing. Of course, it is quite obvious that the plans that now appear to be before us have been considerably diminished from the original grandiose plans that were put forward.

Why, then, is this legislation before us? We have been told consistently by the Olsen government that the privatisation of racing can occur without legislation. Quite obviously, the reason why we have to have this legislation is that the proponents of proprietary racing need to secure funding. I think that in itself should cause alarm bells to ring for all members of this parliament. If these proposals, which have now been around for four or five years, were so sound and solid and the business plans were so persuasive, why is it that this new form of racing will, under the terms of the bill as they come to this chamber, not pay any licence fees at all? Why is legislation needed to give some backing to the proponents of this legislation so they can get money to get it up and running?

At this point I think it is worth referring to the original TeleTrak proposals which were put to the Victorian government. I refer to a Victorian government report of the interdepartmental committee working group on the TeleTrak proposal, dated 19 November 1996. I can see that what is now being put before us may well have changed considerably since that time, but nevertheless I think the principles—

The Hon. T.G. Roberts: Every fortnight.

The Hon. P. HOLLOWAY: Yes; it is changed every fortnight, as my colleague says. Nevertheless I think the basic principles of the Victorian government of the day—and it was the Kennett government—are worth putting on the record. I also make the point that at least the then Victorian Kennett government set out to do a proper analysis of this proposal. That has not happened in this case. Whereas we can look at what the Victorian government thought of this proposal back in November 1996, this government certainly will not be able to produce anything like this that will give us any details at all about the viability of this scheme. I would like to read some of the key findings in the executive summary of the Victorian working group report, as follows:

> In the absence of essential information, the working group is unable to assess the feasibility of the TeleTrak proposal with any authority and, accordingly, regards the question of the proposal's feasibility with extreme caution. The credibility of the proposal is not enhanced by the anonymity of the financial supporters of TeleTrak. (TeleTrak declined to provide any of the requested information on the grounds of commercial confidentiality.

We have heard all that before. It continues:

> The company indicated that it would reveal relevant information once licensed to operate.)

At this point, I ask whether the minister in summing up can tell me whether they have any more information now in relation to the backers of this report than the Victorians had some four years ago. The report further states:

> The impact of TeleTrak on the established racing industry as a whole is likely to be complex having regard to the multifaceted nature of the industry. The proposal can be expected to present opportunities and risks for various individual suppliers of products and services.
>
> The level of impact will be dependent on the scope of the venture in respect to the number of TeleTrak venues, frequency of racing and most significantly, whether there is any black-out of race transmissions and wagering services to all or parts of Australia.
>
> The impact of TeleTrak on Victorian government revenue can be expected to be closely correlated to its impact on the established racing industry; the amount of wagering it generates in Victoria; and its impact on state and regional economic activity. The effect on state revenue is thus dependent on TeleTrak's impact on net wagering revenue and on its impact on economic activity through significant net income from outside the state.

That is the sort of information that one would like to think would be made available to this parliament before any proposal goes ahead in the state, but of course it is not. It continues:

> Racing is a national sport conducted under a national framework. The Australian racing industry benefits from successful and co-operative national relationships between the state and territory's racing administrations. These relationships operate at the levels of minister, racing club and totalisator operator. It is highly desirable that there be a national discussion and, if possible, national agreement on any question which has the potential for a major impact on the racing industry—the possible introduction of proprietary racing is such a question. Therefore it is highly preferable that any legislative change should only be considered following national discussion on the desirability of proprietary racing and the regulatory framework which would apply.

I would be interested to know from the minister whether there have been any discussions with other states and whether the minister agrees that, because racing is a national sport conducted under that framework, we should be going it alone and, if so, what the risks are associated with that? The report also states:

> The introduction of proprietary racing could necessitate significant changes to the regulatory mechanisms of the racing industry. New mechanisms and bodies may be needed and there would be a consequential cost involved in their establishment. The state should, as a precondition for the establishment of any proprietary racing venture, require the lodgement of sufficient financial surety to offset any financial risk to the state.

I think that comes back to the heart of one of the issues that we will no doubt cover in committee whereby apparently under the proposal before us there is absolutely no contribution at all from this proposed venture to the state of South Australia. The final point I wish to quote is as follows:

> This requirement is paramount in the case of TeleTrak given the potential shortcomings of TeleTrak's business plan and the unsubstantiated claims in respect to the penetration of the Asian market. TeleTrak has not demonstrated the financial substance necessary for the state to establish a regulatory regime for proprietary racing.
>
> For the state to agree to establish such a regime ahead of lodgment of a financial surety would be to expose itself to significant risk and loss if TeleTrak was not commercially successful and thus unable to meet the cost of the regulatory framework. TeleTrak has claimed that it has two 30 per cent backers for the public float, however TeleTrak has refused to make these backers known to the working group. Thus the working group has been given no evidence of substantive financial support for the venture. For the state to change its legislation, grant TeleTrak a licence and create a new regulatory regime in these circumstances would be to expose itself to significant and unnecessary risk.

I hardly need point out that this government has continually told us about its asset sales that it has to do so to avoid risk. However much the proposal before us today might have changed from what was put to Victoria in November 1996, I would have thought that the points that were made by the working group in that state demand our close attention. The Victorian report continues:

> On the basis of these findings, the working group recommends:
>
> (i) That the government not consider any legislative changes which would authorise the TeleTrak proposal until the completion of a national review of the general principle of direct proprietary participation in the conduct of racing.
>
> (ii) That the national review recommend an appropriate regulatory model should any jurisdiction elect to authorise proprietary involvement in racing.

Whatever we say about the Victorians, at least on this occasion they are looking for once in the national interest.

The Hon. R.R. Roberts: And they do control the richest racing industry in the world.

The Hon. P. HOLLOWAY: Indeed, as my colleague the Hon. Ron Roberts points out, they control some of the best racing in the world. The final recommendation was:

> (iii) That, in any circumstances, the government not proceed with any legislative changes to authorise proprietary participation in the conduct of racing unless one or more proponents can provide the government with financial surety to underwrite the regulatory regime that would need to be established.

That begs the question for us. What sort of surety will we be getting for any regulatory regime here? What will be the cost to our existing industry? Those questions, which were raised four years ago in Victoria, are pertinent today, even if the proposal has somewhat changed. I am aware that members received a letter from Cyber Raceways after this bill was debated in the other chamber, and that provides a little information, but I suggest that the sort of detail—

The Hon. T.G. Roberts interjecting:

The Hon. P. HOLLOWAY: That's right. They were only selling a product. I would have thought that raises as many questions as it answers. For me, that is sufficient reason by itself to oppose this bill and have real doubts about it. The other matter that I wish to cover is the extension into new gambling ventures. It was quite clear from the original TeleTrak proposal that its viability depended very much on the operation of internet gambling into Asia.

We are told, for example, that the courses have to be straight lines because that is the only way we can get the video of the races on to the internet. Why that is technically I am not sure and I have not seen an explanation for it, but it keeps coming up in article after article that that is why we need straight tracks. I would be pleased if someone could explain the technicality of that, because I cannot see what it has to do with showing video on the internet.

The important point is that this proposal involves the extension of gambling into new ventures. Under the original TeleTrak proposal, and from what we can see of this latest one, it is all about providing gambling on the internet. Those members who were on the select committee into internet gambling know that the only way that internet gambling can be operated in this state is under a section of the Racing Act that permits the TAB to operate betting by telephone or telegram, which I think is the wording in the legislation. Under the interpretation of that act, people can bet on the internet but only through their telephone betting accounts. Although, in effect, we have some form of internet gambling in this state via the TAB, it is a fairly narrow and restricted operation because of the constraints of the act.

The question that I would like answered is just how substantial this new venture will be in terms of its extension into the internet. Are we to partake of a whole new order of magnitude of gambling, in which case we should think carefully about it. After all, the Premier decided today that he will introduce a bill next week to limit gaming machines because he is concerned about the impact of gambling on the community. I would have thought that, before we open a new door on the expansion of gambling, we should think carefully about what we are going to permit.

The Hon. T.G. Roberts: You can't cap the net.

The Hon. P. HOLLOWAY: That is true; we cannot cap the net. Along with the Treasurer and my former colleague George Weatherill, I was one of the majority of the select committee on internet and interactive gambling who supported the managed liberalisation of internet gambling. However, our recommendations were subject to the development of a

proper regulatory framework for the introduction of internet gambling. The position that I will be taking on all these conscience vote issues that come before us, whether they relate to internet gambling through proprietary racing, the Casino, TAB or anywhere else, is that, before we allow any extension of internet gambling, we should get a regulatory framework in place first.

We also have to see what the commonwealth government does with its proposed moratorium on internet gambling because there is some considerable question as to whether or not that legislation, if it gets through the Senate, will apply to these forms of gambling.

The Hon. Diana Laidlaw: Does the Labor Party support the legislation in the Senate?

The Hon. P. HOLLOWAY: No, the Labor Party has opposed any moratorium on the introduction of internet gambling.

The Hon. Diana Laidlaw: Are you going to agree with the Labor Party's position in the Senate?

The Hon. P. HOLLOWAY: As I said earlier, I supported the majority report of our committee, which says we should have managed liberalisation. I am saying that, before we move into it, the framework should be established. While most of my colleagues in the Senate do not say there should be a cap, I am sure that most if not all would agree that there should be some proper regulatory framework for the operation of these forms of gambling. That was part of their recommendation, along with that of some Liberal members, in the Net Bets report from that select committee.

This issue is changing by the day. It is not an issue on which one can have a completely fixed view. New forms of product are developing daily and those of us on the committee were made well aware that, when digital television is introduced into this country in the now very near future, that could have a very significant impact on the use of the internet, not just for gambling but for a whole lot of other things. This issue is changing very rapidly as technology changes, and all of us on the select committee, whether we were for or against internet gambling, believe that it is necessary that parliaments get up to speed very quickly in terms of their regulation of these issues.

In relation to this bill, I fear that we could be opening the door to a further extension of internet gambling without really getting in place first those basic conditions for governing the industry.

The Hon. T.G. Roberts: The horse has bolted.

The Hon. P. HOLLOWAY: Yes, the horse has bolted. With those few words, I conclude my contribution to the debate. I look forward to the minister trying, at least, to provide some information as to exactly what it is we are actually supporting here.

The Hon. L.H. DAVIS secured the adjournment of the debate.

AUTHORISED BETTING OPERATIONS BILL

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

ADJOURNMENT

At 11.25 p.m. the Council adjourned until Thursday 30 November at 11 a.m.