LEGISLATIVE COUNCIL

Wednesday 2 May 2001

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I lay upon the table the 16th report of the committee and move:

That the report be read.

Motion carried.

The Hon. A.J. REDFORD: I lay on the table the 17th report of the committee.

The Hon. A.J. REDFORD: I lay on the table the 18th report of the committee and move:

That the report be read.

Motion carried.

MATTER OF URGENCY

The PRESIDENT: I have to advise that the Hon. Paul Holloway has informed me in writing that he wishes to discuss a matter of urgency, that is, that the Treasurer of the Government of South Australia should be censured for his poor handling of the privatisation of the state's electricity utilities and of issues surrounding South Australia's entry into the national electricity market. I ask members who support the proposed matter to rise in their places.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

Members having risen:

The PRESIDENT: As proof of the urgency of this matter, I call on the Hon. Paul Holloway to move the motion.

The Hon. P. HOLLOWAY: I move:

That the Council at its rising do adjourn until Friday 4 May 2001 at 1.30 p.m.

At the outset of this debate, I indicate that I intend to speak for 20 minutes, which will allow 10 minutes for a spokesperson from the Democrats to speak on this matter and that will leave 30 minutes of the allotted time for the government and its allies to respond. That, of course, will not impinge on the other matters that we have before us today.

As a matter of urgency I bring forward this issue to the Council. There is no doubt that the electricity crisis that this state faces in the near future is a disaster of massive proportions. This state has been brought to this crisis point by the Olsen government and particularly by the minister responsible for electricity, Rob Lucas. Due to the gross incompetence of the Treasurer, his mismanagement of the privatisation of the electricity assets and his handling of the national electricity market issues, electricity retail prices for the largest 3 000 business customers in South Australia will rise by an average of 30 per cent and, in some cases, by as much as 80 per cent from 1 July this year. These prices will apply for the next five years. Where businesses have sought shorter term contracts, those price rises are even higher.

These electricity contracts apply also to 300 government sites, for which the Olsen government is only now negotiating prices. At the eleventh hour the Olsen government is negotiating prices. Price rises of 30 per cent for these government departments will add millions of dollars to the cost of running hospitals, schools, police stations and other areas of government—30 per cent. Without budget supplementation for these price increases, higher electricity charges can only mean cuts to nurses, teachers, police officers or other public servants, or they will mean further reductions in the already strained government services or higher charges to the public. This is what this government has done to this state and that is what this Treasurer in particular has done to South Australia, and he should be condemned for it.

That is just in the government sector, where there are 300 sites. In the private sector thousands of jobs will be at risk and new investment, instead of being made in this state, will head to Queensland or Western Australia. Even today, in the Economic and Finance Committee, evidence was given by Business SA and by people from the Engineering Employers Association that this price rise will severely damage the economic prospects of South Australia. Make no mistake about it: it will severely damage the prospects in the private sector and it will add to costs that will pass on to every consumer in this state.

But that is only the start; that is just the start from 1 July. With household customers to become contestable, the deregulation for customers will start in just over 18 months, on 31 December 2002. When that happens this contagion will spread to all South Australians.

I remind the Council of the point that I made the other day. If an average 30 per cent increase in electricity prices were to apply to all consumers, that would add over $300 million per annum to South Australian electricity customers' bills. And that is before the GST. This state paid over $1 billion for electricity in 1999, in that financial year before the GST hit and before the growth in the market today. So, it was already over $1 billion. A 30 per cent increase on that, with the GST, would push it up well over $350 million. That is the dimension of the crisis that faces us—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: With $350 million you could have paid—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Mr President—

The Hon. T.G. Cameron interjecting:

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

The Hon. P. HOLLOWAY: Mr President, I do not mind facing interjectors on the other side of the chamber, but can I suggest that if these people—

Members interjecting:

The Hon. P. HOLLOWAY: Mr President, can I suggest—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Why don't you cross over there with your mates—

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The Hon. P. HOLLOWAY: The voice of shame. And shouldn't they be ashamed of themselves—

Members interjecting:

The PRESIDENT: Order! The Hon. Paul Holloway will address the chair.

The Hon. P. HOLLOWAY: I wish I could. It is not enough for the Treasurer to say that other states are facing price increases. It is not enough for them to do that. That is the excuse. The Treasurer has been trying to dig himself out of the hole in recent times. It is true that prices in Victoria

and New South Wales did fall dramatically after the introduction of the national electricity market in 1995. Prices in New South Wales did fall dramatically. In fact, New South Wales consumers saved something like $1.6 billion because of the falling prices. But, as many commentators suggested at the time, those wholesale prices, which were around $25 a megawatt hour, were not sustainable, and that prices would inevitably rise to levels of $40 to $45 a megawatt hour, which they now have. The prices in South Australia have always been much higher than this, and they have now gone even higher.

I would like to quote from a table that the Industry Regulator, Mr Lew Owens, produced earlier this year with respect to the average summer spot prices for electricity. The average summer spot prices from December to February are as follows. In Queensland in 1998-99 it was $71 per megawatt hour. A year later, it had fallen to $63 a megawatt hour. In 2000-01 it fell to $53 a megawatt hour. That was in Queensland, where the government has shown an interest in protecting its customers—unlike this Treasurer. In New South Wales, the price was, as I said, the unrealistic $22 a megawatt hour. All the commentators at the time said they could not last. They have now gone up to $49. They are still the cheapest in the country.

In Victoria it was $27 a megawatt hour in 1998-99 and it stayed at $27 in 1999-2000. In 2000-01, it had gone up to $70; it is the second highest now. So, whereas Queensland has consistently fallen, Victoria has risen. South Australia had cheaper electricity prices than Queensland in 1998-99: $59 was the average summer price per megawatt hour. It then went up to $85, and now it is far and away the highest in the country: the average summer spot price is $112.

Yes, there have been price rises in other states, but they come from a much lower base, and the consumers of those states have had the benefit of cheaper electricity for a number of years. We have never had that benefit. We were always paying more, and now we are far and away paying the highest rates in the country. Let us kill that nonsense once and for all when the Treasurer tries to compare us with what is happening in other states.

How did the Treasurer get us into this mess? First, decisions were taken by the Olsen government during the last five years of ETSA being a publicly owned utility to slash maintenance and investment—and that has been well documented. Secondly, it deceived the public at the last election when it said that it would not sell the Electricity Trust. The Premier and a number of other senior ministers promised faithfully that it would not be sold. Of course, as we know, that promise scarcely lasted until the polls were declared. The Treasurer was the new minister responsible for electricity. He told us that we had to sell ETSA to reduce the risk to public finances. The public of South Australia now clearly see the only risk in selling ETSA was the risk to their pockets: it was the risk to their finances, not to state finances.

The Premier recognised the impending electricity supply crisis in this state. In 1996—this is before the election and when he was the minister—he warned of power shortages in the future. He warned of it then, so he has no excuse for not acting. In 1996, he warned of power shortages by the summer of 2000—and, boy, we sure had power shortages! He was then a supporter of Riverlink, the interconnect with New South Wales. As Michael Egan in New South Wales pointed out—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order, the Hon. Terry Cameron!

The Hon. P. HOLLOWAY: —the first he heard of Riverlink was when John Olsen raised it with him in 1996. The Premier was then pushing it. What changed? He decided to sell the Electricity Trust, and what he needed were things that did not affect the sale price. Suddenly Riverlink went out the window: it went from being the favoured solution to going right off the agenda. What we still need desperately are more interconnects with interstate and more installed power in this state, and to enable more generating capacity we need more gas. The three things we need in this state are more generating capacity and more interconnects, but to get more electricity capacity we need gas. After 7½ years in office not only has the Olsen government failed to secure adequately priced electricity supplies but it has also failed to address the gas supply question.

Gas was originally brought to South Australia by the Labor government. The supply of the Torrens Island Power Station, which at the time used 70 per cent of the supply, was the facilitation for the Moomba gas plant to be built. That is what we needed. Gas capacity constraints have been evident for years; they did not turn up today. However, this government has done nothing. These decisions needed to be made not now but four or five years ago when John Olsen was Minister for Infrastructure. We are now being told that a new gas pipeline will not be ready until 2004—in two or three years. This means that South Australia can have no large, low cost additions to generating capacity until then. The fact that we are in this position amounts to nothing short of criminal negligence by the Treasurer and this government.

To get out of this mess we desperately need more installed large scale generating capacity, but before we can get that we need more gas, but we cannot get gas until 2004 because this Treasurer has failed in his duties on that, just as he has with electricity. The Treasurer as the minister responsible for electricity must be removed from his portfolio. Better still, he and his government should be removed from office altogether. His great failing was to be so absorbed in the electricity privatisation process that he failed to look after the state's long-term energy needs.

We have debated in this Council many times before the failings of the ETSA sale process, including the huge cost of consultants, how they lacked accountability, the mistakes in the contract, the conflicts of interest with the first probity auditor, the conflicts of interest of some key consultants and the numerous criticisms of the Auditor-General of the ETSA sale process. These failings of the Treasurer are bad enough, but they are overwhelmed by the failure of the process to deliver the claimed objectives. Plenty of warning was given to this government. Mr Allan Asher, who was a Commissioner of the ACCC, during an ABC program on 5 November last, said:

> What it shows is a problem in competition policy, and indeed that was one of the areas of my responsibility at the commission.

This was before the Treasurer's federal allies forced Allan Asher out. He continues:

> We criticised for three years the proposals in South Australia to have such a small number of generators with so much market power. We'd also been arguing for much bigger interconnection between South Australia and New South Wales so that competition really could work. Those things weren't done and unfortunately state governments are often, especially when they own assets, they'll often rig a structure so that their own revenues are higher than they would be in a more competitive market. In other words, if there were, as we'd argued for, much better interconnection between New South Wales and South Australia, and between New South Wales and

Victoria, there would have been tons of power for everyone, there would have been no reason for the prices to go up.

That was the ACCC, to which the Premier has now gone rushing back at the last minute to try to help him out of this. The Premier unequivocally promised cheaper power after privatisation. On 17 February 1998, on the day after he announced the privatisation, he said:

. . . fierce competition between private suppliers always results in prices dropping.

The trouble is that, under the Treasurer's stewardship of electricity, there is no competition at either retail or generator level. The Treasurer even had the audacity to make the following comment in his press release of 3 August last year when he announced the lease of Flinders Power. The press release states:

Mr Lucas says the fact that the South Australian government has encouraged more competition through extra generation and interconnection has also meant a reduction in the value of its generation assets. 'However, a critical issue for the government has been the need to ensure a secure and adequate supply of competitively priced electricity in the state', Mr Lucas says.

What the Treasurer is saying is that we actually sold our electricity assets cheaply to end up with the mess of a market that we are now in. What a disgrace! We sold our electricity assets cheaply so that we could end up having the market that we now have, which, of course, is not competitive.

There were plenty of warnings by Lew Owens in October last year. Mr Owens was almost pleading for the government to take the impending crisis seriously. This government has drifted on in a dangerous state of self-denial. Sadly, its privatisation decisions and its lack of action in terms of gas have severely limited its opportunities to extricate us from the crisis. The government has fallen into a trap of its own making in terms of electricity, and it has taken every South Australian into that trap with it.

Whilst the government might not have been able to do much, it might at least have tried to mitigate the crisis earlier and get a better deal for its customers by negotiating earlier, but it did nothing. For three years, this Treasurer has denied that any major problems exist within the national electricity market. I first asked him about this on 18 February 1999. What did the Treasurer say? He said:

Nothing is ever perfect, but by and large I think the transition to the national electricity market has gone pretty well. A lot of people amongst the opposition parties and critics were gleefully predicting that the lights would go out and that there would be a national calamity as we moved to the national electricity market.

He went on:

. . . by and large, Australians, and particularly South Australians, can be pleased that it has gone reasonably well in terms of the changes.

The Treasurer reiterated that as recently as October last year when he said in answer to another question that I asked about whether the market needed reform:

If anyone took the view that it is 100 per cent perfect first time they would be deluding themselves. There is always room for monitoring and, if agreement can be reached, for some improvement in the operations of the system, but that would not be within the structure of a radical overhaul or restructure of the total market: it would be looking at areas where we might be able to improve the operation of the market, if that can be agreed with other jurisdictions such as Victoria.

In other words, a bit of fine-tuning might be all that is needed. Of course, how things have changed in the last six months. The penny has finally dropped and, at this moment, the Premier is desperately trying to find some way out of a crisis of this Government's own making.

I have used up my time. I conclude by saying that it is high time that this Treasurer was removed from the electricity portfolio and the Olsen government was removed from office because of the disastrous position in which they have put this state.

The PRESIDENT: The Hon. Sandra Kanck.

The Hon. SANDRA KANCK: Thank you, Mr President.

Members interjecting:

The PRESIDENT: Order! The Hon. Sandra Kanck.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

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

The Hon. SANDRA KANCK: I rise to indicate my support for the motion, although I do not see it as having quite the same urgency that the opposition does because I already have a motion before the Council calling on the Premier to strip the Treasurer of responsibility for the electricity industry and at the same time to create a special minister for electricity supply. Nevertheless, despite not feeling that it is quite as urgent as the opposition does, I believe that there is an overwhelming case for taking action to strip the Treasurer of these responsibilities.

Many things were promised to this parliament if it was prepared to breach its collective commitment to the people of South Australia made at the last state election and allow the sale of our electricity assets. We were promised cheaper electricity should the 'no privatisation' pledge at the last election be swept away. Instead, today we are on the cusp of enormous increases in the price of electricity for South Australian businesses. Those price increases are already beginning to bite in respect of investment and employment in South Australia.

Today Bob Goreing of Business SA reported to the Economic and Finance Committee that gross state product could be reduced to the tune of $200 million next financial year as a consequence of rising electricity prices—and that in fact might even be a conservative estimate. That this scenario was not foreseen by the Treasurer is a sin as great as the appalling deception of the South Australian electorate at the last state election. We privatised our generators despite the fact that supply was constrained.

The most basic rule of economics is that when demand outstrips supply prices will rise. The government blithely ignored that rule. The Treasurer blithely ignored that rule. We are now paying the price for that foolishness. The suggestion that the sale of our electricity utilities would be the financial saviour of the state was always total nonsense. I remind members of the report that I released back in 1998 on behalf of the Democrats when we came to the conclusion that we should not sell our electricity assets.

I have maintained contact with quite a number of people who work in our electricity supply industry; one of them rang me the other day and I found it interesting that he asked whether he was talking to Cassandra. I remember that back in February 1998 the Premier claimed 'A disaster of State Bank proportions was looming if ETSA and Optima remained in public hands.' It seems in fact that we might be getting that disaster of State Bank proportions by having sold them off. Another very basic fact was ignored when the Treasurer talked of the benefits of the elimination of state debt by the sale of our electricity utilities. What we achieved was no more than—

Members interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: What we achieved was no more than a transfer of debt from the taxpayer to the electricity consumer and, of course, by and large these are the same people. The only difference now is that the holder of the debt is not the democratically elected government of this state but a series of private companies. Now they want their pound of flesh and they are extracting it with great efficiency. I have been told that the generators will recoup their total investment within just three years of the privatisation of ETSA. I also caution against the belief that once the market beds down relief will be on the way. The Victorian experience indicates that price increases are the long-term trend of private ownership and the national electricity market operated together. Might I add that I believe the ALP does have some culpability in this—

Members interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: —because it worked hand in hand with the government—

Members interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: —to ensure that we went down the path of competition policy in establishing this very flawed national electricity market. There are many other points that could be raised today, but I will hold my fire until I address my own motion in a few weeks. What I will say is that a total rethink on the issue of electricity supply is needed. If we do not have a rethink, the massive increases in the price of electricity that 3 000 businesses are facing will flow on to ordinary households.

The Treasurer is not the person to undertake this process. His stewardship of the privatisation has been an unmitigated disaster. It would be an enormous leap of faith to assume that he can now rectify the myriad problems of his own creation. Indeed, nothing short of the creation of a special minister for electricity supply is acceptable. The Premier must act now.

The Hon. R.I. LUCAS (Treasurer): As the Hon. Sandra Kanck has indicated, we are already debating a motion in similar terms over many weeks duration so we can revisit previous speeches on the same issue and tart them up a bit for this motion. I indicate at the outset that the Hon. Mr Holloway has outlined a time allocation that would have prevented some of the Independent members in this chamber from speaking.

Members interjecting:

The Hon. R.I. LUCAS: I do not know how the Independents are voting. I do not know how the Hon. Nick Xenophon is voting; that is entirely an issue for him. I assume that the honourable member paid the Independents the courtesy of advising them of your motion. I know that I was not provided with a copy of the motion. I obtained a copy from the office of the parliament at around 1.40 p.m. It is normal courtesy when one is moving a motion like this to provide a copy—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: We did not discuss it in the caucus room. It is my intention, without unduly elongating this debate, to allow the opportunity for Independent members, should they so wish, to participate in this debate.

The Hon. T. Crothers: I'll need only an hour!

The Hon. R.I. LUCAS: I would hope that the Hon. Mr Crothers would not need an hour. That is my intention, but it is ultimately up to members as to whether or not they agree with that. I will summarise some of the major criticisms that have been made in this motion and, indeed, other motions. Contrary to something suggested by the Deputy Leader of the Opposition, when I became Treasurer I did not become the minister for the electricity industry. I cannot remember exactly, but for six months or so the Minister for Government Enterprises, Michael Armitage, was the minister for electricity. At some stage during 1998 I had the extraordinary privilege of being offered the challenge of electricity and, of course, I accepted that invitation from my leader and will willingly and happily do it for as long as he wishes.

It was at some stage during 1998 that I became the minister responsible for electricity as well as the sale or lease of the assets. Therefore, I have been the responsible minister for 2½ or 3¾ years, and since 1998 we in South Australia have seen a 30 per cent increase in interstate generation capacity in South Australia. The Osborne—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: The problem in California is that they did not increase electricity supply. Demand was going up and, for a variety of reasons, they did not increase the supply. In just over 2½ years we have increased interstate generation in South Australia by just on 30 per cent. It should also be remembered that previously it was intended to close down the Playford power station of some 200 to 240 megawatts either last year or this year—I would need to check the exact date—and the government, through its processes, in the past two years said that it did not agree with that and we needed to look at ways of continuing the capacity of the Playford power station. So another 200 megawatts of generation capacity has been kept within the system that was not intended previously to be continued.

So, if you want to add it up, just on 200 megawatts at Playford, about 200 megawatts of capacity at Osborne, just under 100 megawatts at Ladbroke Grove in the South-East—80 megawatts—and just under 500 megawatts at Pelican Point, one can see in ballpark terms approximately 950 or 1 000 megawatts of either additional capacity or capacity which was intended to be scrapped but which is now being continued under the process that we have overseen over the past 2½ years. If one wants to do the rough calculations, one will see that that 1 000 megawatts is now probably about a 35 per cent or so increase in state generation.

The Hon. Diana Laidlaw: That's in 2½ years.

The Hon. R.I. LUCAS: It is in the space of 2½ years. Let us compare that to the record of the Labor Party—and I have highlighted this before. In 1984 the Bannon Labor government established a special committee to look at the power needs of South Australia. Without going into all the detail, I am told that it recommended that a new base load coal fired power station be built by 1993 by the Bannon Labor government.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway was a member for part of that period. The recommendation was a new coal fired power station by 1993. What happened? They did nothing during that nine years in relation to that recommendation.

Members interjecting:

The PRESIDENT: Order, the Hon. Mr Cameron and the Hon. Angus Redford!

The Hon. R.I. LUCAS: The government's record in just three years is almost 900 to 1 000 megawatts of extra capacity, compared with a record where Labor was told it had to build an extra base load coal fired power station and it did

not do so in the period leading up to its defeat in government in 1993. It did not maintain what it had, but it did not build the new power station when it was recommended that it ought to do so. Yet, in the space of 2½ years we have added 30 to 35 per cent of either extra generation or retained generation that was to be scrapped as a result of the policies we have implemented in the past three years.

In addition to that, we have fast tracked a MurrayLink underground interconnector of some 200 megawatts capacity. Furthermore, through assistance in fast tracking we have facilitated three companies—Australian National Power, Origin and AGL—which have announced that they want to build additional peaking capacity by the end of this year. It depends on the final proposal; I cannot give a commitment yet, as these are private sector proposals, but they are ballpark figures of 200 to 250 megawatts of additional capacity by this summer, with some of them wanting to build additional capacity for the following summer as well.

In relation to SANI or Riverlink, late last year or early this year the government offered major development status through the minister for planning which indicates to them, 'If you can ever get approval from NEMMCO to proceed (because it is not a decision for the state government), we will assist you in fast tracking.' As I highlighted yesterday and on many previous occasions, I have also given the TransGrid people special approval to enter properties through the Riverland to do site preparation and planning, but in 12 months they have done nothing with that.

The government has supported and given indications of support to Riverlink, even though we have said that we prefer underground, unregulated and unsubsidised interconnectors as a general policy position but, in the end, if they can get approval from NEMMCO, the government will give them this assistance for them to proceed. We have also indicated not only that we strongly support Basslink dumping Tasmanian power into Victoria but that we also hope to see a 400 megawatt upgrade of the interconnector from New South Wales or the Snowy into Victoria.

So, in a short space of 2½ years there has been an extraordinary degree of comprehensive activity by this government in terms of tackling the power supply problems of South Australia. Contrast that with a recommendation to Bannon Labor in 1984 to build a new coal fired power station and in the nine years after that to 1993 it did nothing. It did nothing in relation to that power station. That is the record of activity in the last 2½ years or so, and that is the record of inactivity in relation to Bannon Labor in particular.

The Hon. A.J. Redford: Bannon-Holloway government.

The Hon. R.I. LUCAS: That is too strong an indication of the Hon. Mr Holloway's influence at that time or, indeed, now. In addition to that, I am criticised for the lack of activity over the last 25 years in terms of providing extra competition in relation to gas. So, for 25 years we had 13 years of Labor governments which did nothing, and for the first six years of a Liberal government we made no progress in terms of extra competition on gas. But this Treasurer is to accept responsibility—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —for almost 25 years of inactivity in relation to competition in the marketplace in South Australia. In the space of 2½ years I have overseen a process where we, on behalf of the government—

The Hon. P. Holloway: You needed to do it five years ago.

The Hon. R.I. LUCAS: This is a censure motion in relation to the Treasurer, okay? In the 2½ years that we have been responsible for electricity, we in government have overseen a process to bring in, for the first time, competition in the gas marketplace, competition you refused to do anything about for almost 20 years in government. In 2½ years we have overseen a request for submissions process; we have now seen a successful consortium of people who have indicated that they are prepared to put in up to $200 million to build a new pipeline from Victoria to South Australia. For the first time, we will see competition in the gas marketplace underpinning industrial development in this state and underpinning the electricity industry in South Australia.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway did nothing.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: If you want to deny who is responsible for the national market, let me read to you the COAG—

The Hon. P. Holloway interjecting:

The PRESIDENT: Order, the Hon. Paul Holloway!

The Hon. R.I. LUCAS: Who attended the COAG meeting in June 1993, the Council of Australian Government leaders? Premier Arnold and Prime Minister Keating. Who was the key adviser to Premier Arnold? Kevin Foley was the key adviser to Lynn Arnold as they went off in June 1993 to Melbourne for the Council of Australian Government Leaders. What did they agree to in 1993? Lynn Arnold was advised by Kevin Foley. Kevin Foley was advising Lynn Arnold what he should do, as Premier, on behalf of the Labor government in 1993. Let us listen to this. What did Labor agree to in 1993 with Kevin Foley as the senior adviser to Lynn Arnold? The communique states:

> Since the National Grid Management Council was established in July 1991 [under Labor], relevant heads of government have extensively considered the arrangements necessary to give effect to their decision to implement a competitive electricity supply industry in eastern and southern Australia.

The decision of Prime Minister Keating and Premier Arnold, advised by Kevin Foley, in June 1993 proudly proclaimed in the communique the establishment of the national electricity market in South Australia. Now they would have us believe 'We did nothing.' They would have us believe that they did not support the national market.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: They would have us believe that it is all the fault of the terrible Liberal governments, state and federal. The June 1993 communique, with the fingerprints of Kevin Foley and Lyn Arnold all over it, indicated their decision to implement a competitive electricity supply industry in eastern and southern Australia. The Prime Minister, the Premiers of New South Wales, Victoria, Queensland and South Australia and the Chief Minister for the ACT agreed to have the necessary structural changes put in place to allow a competitive electricity market to commence, as recommended by the NGMC, from 1 July 1995. The decision of 1993 had the fingerprints of Foley, Arnold and state Labor all over it, and they do not want to know about it. They want to blame Liberal governments—

Members interjecting:

The PRESIDENT: Order, the Hon. Mr Cameron!

The Hon. R.I. LUCAS: —but their fingerprints are all over it. You will not get Kevin Foley or state Labor, with Mike Rann as a senior minister, sitting around the table—

Members interjecting:

The Hon. R.I. LUCAS: Absolutely—he was a senior adviser. As they were sitting around the cabinet table, Mike Rann said, 'Let's get into this national electricity market. When you go to Melbourne, you have to sign this communique, Premier Arnold. This is what you should support. We will support Prime Minister Keating.' This is a Labor initiative.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: We are an open and accountable government. The state government acknowledges that Liberal governments—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order, the Hon. Mr Cameron!

The Hon. R.I. LUCAS: —both federal and state, since then, have supported the decision to enter the national electricity market. But members opposite should not run away, as they are at the moment, and say that this national market was only a result of the Liberals. They should ask questions in the parliament about whether or not Dean Brown signed the document. They started the process, we supported it, and we will happily share responsibility for the national market. We followed the Labor Party's lead: we followed Mike Rann and Kevin Foley, and Premier Brown, Premier Olsen and Prime Minister Howard followed their lead—Prime Minister Keating and Premier Arnold, advised by Kevin Foley—in supporting this national market.

If it was as simple as the decisions of privatisation in South Australia, I challenge the Hon. Mr Holloway to indicate why BHP in Newcastle, a publicly owned electricity system under a Labor government, is currently facing a 50 per cent price increase for its electricity.

An honourable member: Egan wanted to sell—

The Hon. R.I. LUCAS: Yes, Egan wanted to sell. But at the moment it is publicly owned, under a Labor government, and it is facing a 50 per cent price increase. I have issued in the past 24 hours an indication of a broad range of price increases in New South Wales for regional and metropolitan companies. Yesterday I quoted from an article in the *Sydney Morning Herald* with the headline 'Carr may pay the price for power price increases' in which it clearly indicated that, in a publicly owned electricity system, with a Labor government in New South Wales, price increases of 40, 50 and 60 per cent are being felt.

I will indicate two further price increases in New South Wales about which retailers have advised us in the past couple of weeks. A utility company in New South Wales is facing a 100 per cent price increase in peak power; a New South Wales food company is facing a 62 per cent price increase in peak power; and a Victorian manufacturing company—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: They have already signed the contract. So, I guess it is not negotiable now. They might have negotiated, but that was the best deal they could do in New South Wales—under Carr, under a Labor government and under a publicly owned electricity system, the best deal their negotiations could deliver was a 100 per cent price increase, and a 62 per cent price increase for the food company. I thank the Hon. Terry Roberts for his interjection. I know that he is a bit on the outer within the Caucus at the moment; there is a bit of activity taking place. In Victoria, a manufacturing industry company signed a contract for—

Members interjecting:

The Hon. R.I. LUCAS: We are prepared to support the Hon. Mr Roberts against the Hon. Carmel Zollo for his front bench position—South-East product, and all that! We know they are coming after you but, for what it is worth, we will give you our support.

A manufacturing company in Victoria is facing a 97 per cent increase and a transport company is facing a 59 per cent increase—signed contracts. That is an indication of the general increase in prices. The Hon. Mr Holloway referred quickly to the average summer prices in Victoria. Figures released by NECA looking at the average pool prices this last summer compared to the previous summer showed that in South Australia the average pool price increased—these are NECA figures, not the government's—by 31.4 per cent. In Victoria, the increase in the summer pool price was 161.7 per cent from summer to summer. In New South Wales, it was an increase of 49.8 per cent; and in Queensland there was a reduction of 16.2 per cent. According to NECA, South Australia's price increased—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I am surprised that the honourable member did not refer to these figures. According to NECA, the average summer pool price last year showed significant increases in all three states, the biggest being in Victoria, the next biggest being in New South Wales and the third biggest summer to summer average pool price being in South Australia—all significant increases. Let me say, as I have said on a number of occasions, that the government acknowledges the significance of the problem that the national market is facing at the moment. It is unacceptable to the Premier and the government that we have a situation where in New South Wales, Victoria and South Australia the original objective of Kevin Foley, Mike Rann and Lynn Arnold is not being achieved in terms of competitive electricity prices.

It is unacceptable that the original objective of Dean Brown, John Olsen, this government and me is not being achieved in terms of competitive electricity prices. We share the concerns that I would hope all members of parliament would once they can put aside the politics (if that is ever possible) that this is an unacceptable set of circumstances whether governments publicly own their assets and, as the taxpayers of New South Wales do, have to pay out about $400 million to $500 million in losses because one of their companies lost a court case over a power purchase price contract, or whether they are privately owned industries such as in Victoria under a Labor government and privately operated assets as in South Australia under a Liberal government.

Irrespective of the colour and complexion of the government, Labor or Liberal, irrespective of whether it is publicly owned, or privately owned or operated, we are seeing significant problems in the market in terms of meeting the goal which Bannon and Arnold originally had and which we shared—a competitive electricity—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway says 'Absolutely.' At least we are on common ground—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The government is delivering that competition on more gas. You were there for 20 years—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, we did need the decisions to be taken in the late 1980s or early 1990s when you were there. You were told in the early 1980s to build another power station and what did you do? You did nothing. You were told to build a new power station—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Mr President—

Members interjecting:

The Hon. R.I. LUCAS: Mr President, let us put it on the record—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The Hon. Mr Holloway just indicated that you do not build it until you need it. That is the Labor policy: you do not build it before you need it. That was his defence as to why they did not build the extra power station in 1984 to 1993. The *Hansard* record shows clearly Paul Holloway's interjection, which I have now put on the record. Tomorrow the transcript will clearly show the interjection from the Hon. Mr Holloway and the response I made to clarify an important part of the Labor Party's policy in relation to these issues. This government is delivering competition in the gas market which, for 20 years, Bannon and Arnold Labor—originally, Dunstan Labor—did not deliver in South Australia.

There are too many other things for me to respond to. In terms of the Auditor-General's Report, I will have many other opportunities to respond to those particular issues, but there are one or two other issues that I would quickly like to rebut. The honourable member quoted Allan Asher. I think he indicated that the federal government got rid of Allan Asher. My understanding was that he took another job somewhere, so the honourable member might check his facts in that regard.

The honourable member quoted Allan Asher and said that one of the problems we have is a small number of generators. That is correct. We had one generator in South Australia, and that was Optima. The advice that I received as Treasurer was that, if I wanted to maximise the value of the sale of the electricity businesses, I should not disaggregate the Optima generator, that I should keep it as a whole. In commercial terms, that would have been correct.

For competition reasons, we took the decision to split Optima into three competitive generators. So, yes, we do have a small number of generators, but we had only one generator to start with. It is not possible for the state government to create new generators. We can encourage new competition, as we did with Australian National Power, which is situated just a few kilometres down the track from Optima. We also now have Origin generating in the South-East at Ladbroke Grove, and we will continue to try to encourage further competition. The fact that AGL has now committed to building a power station by the end of this year is a further example.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: We need all of it. We need as much as we can get. We need peak load because in the summer—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, we need peak load, because the problem that we have in South Australia is that our peak load is almost double our average load. We need peak capacity, we need base load capacity and we need interconnection. The government has fast-tracked MurrayLink, it has promised assistance to Transgrid if it can ever get Riverlink through the NEMMCO process, and it is supporting both Basslink and the upgrade of the Snowy to Victoria 400 megawatt interconnector. I will explore that at another stage, perhaps during question time or in another debate.

I refer to the honourable member's extraordinary backflip today when, previously, he and his colleagues (Kevin Foley and Mike Rann) attacked the government for not building Riverlink because we were going to get a higher value for our assets. Today, he attacks the government for selling the assets too cheaply. So, on one hand, we have Labor saying—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No. On one hand, we have Labor attacking the government for adopting policies which actually ratcheted up the price of the generators, when I indicated late last year that we had not done that. We had actually taken decisions to fast track Pelican Point down the track from Optima, which clearly devalued our assets. We took the decision to split Optima into three, which clearly devalued Optima, to try to get more competition.

Having said that, today, the honourable member criticises the government for having sold it too cheaply. So, on one hand, he attacks the government for ratcheting up the price of our assets; today, he quotes statements that I have made to indicate that we sold the assets too cheaply, which is the position that the Hon. Sandra Kanck sometimes adopts, except when she forgets and criticises us for not building Riverlink and says, on the other hand, that we have done that to try to upgrade the value of our assets. You cannot have your cake and eat it too.

The Hon. Diana Laidlaw: They try.

The Hon. R.I. LUCAS: They try, but you have to decide—

An honourable member interjecting:

The Hon. R.I. LUCAS: That's why they've got indigestion. You have to decide what argument you are going to offer and at least try to be consistent. You cannot on one day of the week say that we have adopted a policy to ratchet up the price of our assets and then attack us because we have adopted policies when we indicated clearly—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It was not that we sold it too cheaply; we sold it for less than we could have if we kept it as a monopoly. If you are selling a monopoly, you get more value for it. I would have thought that even the Hon. Paul Holloway would understand that. If you were selling a monopoly such as Optima you would have got more value for it. We did not. We broke it up into three and reduced the costs.

On the weekend there was a story in the newspaper in relation to the possible impact of any power price increases on schools and hospitals. As I have indicated, until we see the contract that has been negotiated the government will not be in a position to know what impact it will have on schools and hospitals or indeed the state budget. We will need to wait until some time in May and June to get the final detail of that.

What I indicated on the weekend, certainly in relation to schools and hospitals, as we look at this next 12 month period and as the market settles down, was that the government has no intention of seeing school or hospital budgets reduced as a result of any power price increase that might be negotiated in the next 12 months. As we frame this budget and future budgets we will make that quite clear, as I have on the weekend, and we will continue to do so over the coming weeks.

Given the strictures of time, even though I will seek the concurrence of members to allow Independent members to speak should they wish, I will not address many of the other claims that have been made in both this debate and others. Obviously, from my and the government's viewpoint, we strongly oppose the suggestions implied in the motion, and we also strongly oppose the motion.

The Hon. T. CROTHERS: I rise to defend the Hon. Robert Lucas.

An honourable member: Oh!

The Hon. T. CROTHERS: Yes, and I will give my reasons for defending him. Don't you go 'Oh' until you hear logic and commonsense—but then some of you people are incapable of logic or commonsense. I turn my attention first to the two Independents in the lower house, Mrs Maywald and Mr Rory McEwen. They would sell their soul to this state for 30 shillings of electoral silver, because that is what this is all about. The best operator by far in either house of parliament is the Treasurer. If they can demean the Treasurer by getting this motion up they perceive that they can do the government some damage—and they may well do that.

I am up on my feet speaking because I want the truth to go on the record—not the perceived truth, not the electoral truth and not the truth that is seen by Mike Rann in his own electoral interests. Let me say to members—and it is in *Hansard* on the record—that I covered it very well when I talked about monopolies charging the price the market would bear and not the price that would give them a profit. It is all in my speech of 3 June when we spoke on the ETSA lease. I wanted four 25 year blocks of the lease on the basis that that would enable us to exercise more control over the lessor than what would otherwise have been the case.

What happened then? The Labor Party decided that it would move an amendment, and it got its lawyers down in the lower house to cobble together a 99-year lease, which they justified by saying that we would get a better price for it. The Labor Party made a mistake in the cobbling together of that amendment to such an extent that the government was able to lease it for 200 years. In other words, all controls over any future lessor were taken away by the Labor lawyers in the other house at a stroke of their offending pens. Members may recall that, when I knew the numbers were here to get the bill through, I would not vote. I abstained from voting because of that situation. I am on the record as making the statement—

The Hon. T.G. Roberts: You ratted on yourself!

The Hon. T. CROTHERS: And I would do it again. I knew the numbers were there. The Labor Party thought it would be smart, because it voted for the lease of ETSA in this chamber. Labor members voted for it. They did not oppose it. They opposed it in the lower house, but they voted to support it in this Council.

I stood outside that door and I said that I would come in like winged Mercury if there was any change in the position in respect of getting the matter through. It was so important to the state that I myself would ensure that it went through, even if it did not meet with my capacity or wish to make a protest about those amendments so shamefully moved by the Labor Party and supported by Ms Maywald and Mr Rory McEwen in the other place. I am determined that each of their constituents in their electorates will get a letter from me setting out their disgraceful performance—

An honourable member: And door knocking.

The Hon. T. CROTHERS: They might even get that, and especially around Millicent—I think they are living there now, but they have not always lived there. They were elected there but they have not always lived there. Let me further say that nine of the shadow ministers on the opposition side who came to me over the week previous to our voting on the lease and begging me—

The PRESIDENT: Will the member resume his seat.

The Hon. R.I. LUCAS: I would like to hear the rest of this, too—nine of them? I move:

That statements on matters of interest and business of the day be postponed in order to conclude the debate on the matter of urgency.

Motion carried.

The PRESIDENT: I call the Hon. Trevor Crothers.

The Hon. R.I. Lucas: Nine shadow ministers?

The Hon. T. CROTHERS: Eight actually, but I am informed that a ninth was there—nine of them. I could name them but I am a stickler: I am old time labour—L-A-B-O-U-R. I am not of the present academicians who sully their right to the Labor Party. The men and women who work for—

The Hon. R.R. Roberts: You're a scab. You can't be labour and a scab.

The Hon. T. CROTHERS: You would not know a scab. Oh, yes, you would.

An honourable member: Yes, I would—

The Hon. T. CROTHERS: You would know a scab. You were looking in the mirror again this morning, were you? Anyhow, nine people who supported this scab, who were in the shadow cabinet, and a backbencher, who shall be nameless—

The Hon. T.G. Cameron: He was going to carry you across the floor.

The Hon. T. CROTHERS: He wanted to carry me across the floor, if need be.

The Hon. T.G. Cameron: He is not strong and big enough.

The Hon. T. CROTHERS: He is not even strong enough in the head. Anyhow, nine shadow ministers came to me and urged me and begged me. A week later, some of them gave me the biggest bopping you have ever seen and, if you remember, I responded in kind—it was about 4 o'clock in the morning.

The Hon. T.G. Cameron: Was Pat Conlon one of them?

The Hon. T. CROTHERS: Let me name the four who were not. It was the Hon. Carolyn Pickles, Kevin Foley, the Hon. Mike Rann and I forget who the other one was. That is three of the four who did not.

The Hon. T.G. Cameron: But it was not Pat Conlon?

The Hon. T. CROTHERS: That is three of the four who did not—that is all I will say. Nine of the others came to me and some of them gave me a bigger bagging than others. They said, 'For heaven's sake, Trevor, please cross the floor' because they—

The Hon. Diana Laidlaw: Carolyn Pickles—

The Hon. T. CROTHERS: No, she did not. I give her her due. She did not. She was always opposed to it, and I give her her due for that. She and I do not often get on but we will get on this time because she was straight. I find it appalling now that the same people who, knowing we have done the job that they would have had to do had we not voted for the lease of ETSA, knowing full well that they would have had no other option but to sell it too because the State Bank debt was so large that it was pulling us down like a millstone tied around our feet, were involved. People were voting with their feet.

We were losing 8 000 to 10 000 of our youngest, brightest and best from this state each year.

I well recall the Hon. Ian Gilfillan—and he is honourable—being sued because he told the truth in here about the State Bank. I think it was $20 000-odd they got out of him. I hope he got it back because he did tell the truth in here. That is what happens in politics. This is an electoral stratagem, but it is falling around their ears. They have opened up Valhalla for the Independent wordsmiths who would support an excellent Treasurer doing an excellent job for this state and who believe it is in the best interests of this state that Treasurer Lucas remains at the helm of Treasury.

Under no circumstances should this censure motion get up, because it is not based on truth or justice. It is based on an electoral determination by the Prince of Darkness himself—the Prince of Negativity, 'Darth' Rann. I could go on and on—

The Hon. T.G. Roberts: As you always do.

The Hon. T. CROTHERS: —and on. Well, as long as you are listening, I am prepared to talk all day. If you look at the speech I made on 3 June in respect of my support for the lease of ETSA, you will see that I referred to monopoly groups—especially the power people. Why? It was because the Seven Sisters have been woken up to by the Arabs, where most of the oil lies, and the profit is now going to the Arabs and not to the Seven Sisters. So what do they do? They buy electricity generators and then they charge like wounded bulls. It is not sufficient to say that this state government can stop them. It cannot. This has to be done at the federal level in the way that petrol pricing has to be fixed at the federal level.

What happened here with the Chief Executive Officer of Shell? When Costello—for whatever reason but I suspect it was electoral—decided that Woodside—which was a good decision—should not pass onto the control of Shell, I believe that Mr Duncan, who has been the CEO of Shell in Australia, determined that our petrol prices would increase by 10¢ a litre on Anzac Day. That was the square off with Shell—one of the Seven Sisters. What they have done is to take control of our electricity assets—it is all in my *Hansard* speech—and they are now going to extract from that the profits that they would have got from oil, because they have bought into the Iranian option, too. Again, that is in my speech in *Hansard*. Of course, the Iranian option—albeit California is now considering one—does not really sit well with people.

I notice that the Hon. Dr Such is in the gallery and I commend him for the statement he made about the Treasurer. It was there for all to hear on the television. I commend Dr Such for his honourable approach to the matter.

Let us look at the Hilmer report. I suppose I had better word this simply for people such as the Hon. Ron Roberts so that they can understand. Professor Hilmer was engaged by Bob Hawke with a view to conducting an examination of electricity generation. What has not been hitherto known by most people is that section 92 of our constitution (which permits free trade between the states) did not apply to the generation by states of their own electricity. Each state had a monopoly on electricity generation. South Australia's electricity was always more expensive because of the poor coal from Leigh Creek and the distance it had to be transported from Leigh Creek to Port Augusta and, then, before we transformed Torrens Island to gas, to the Torrens Island power station. Worse than that, the moneys being returned from ETSA were not being put into any form of maintenance whatsoever of our two major power stations.

An engineer told me once during an inquiry of the Statutory Authorities Review Committee, chaired by Legh Davis, that it would take $800 million to bring those two power stations up to speed and even then one would last five years and the other would last maybe 10 years. We would then have to find $2 billion to build another power station. I think to generate a kilowatt hour was something like 7¢ more expensive at 68¢ per kilowatt than the next highest costing state.

Once Hilmer's report took away section 92 and put section 92 in place to generate electricity, the game was over for us. We knew that Lynn Arnold signed it; he had no choice. We knew what the Keating-Hawke idea was. It was a sound idea and we all agreed with it at the time; and it is still a sound idea if we can do something about pulling these gougers into gear.

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: It is Foley's folly again. He has his mouthpiece up. He is a decent man but he keeps allowing himself to be used as Foley's folly. According to Foley there are 27 letters in the alphabet; did you know that?

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: Well, I don't know; you would have to—

The PRESIDENT: Order! The Hon. Mr Crothers should return to the debate.

The Hon. T. CROTHERS: Yes, sir, I will. I would have to be wearing a white coat to answer that interjection. But the fact is that, once the Hillmer Report was signed into law by Keating, section 92 applied then to all the states with respect to electricity generation, with total free trade between the states. How long would our electricity generators have lived here before New South Wales had put its Snowy Mountains hydroelectric cheaper power into this state? How long would it have been before we had Victorian—and I worked for the State Electricity Commission at Yallourn, where they have brown coal of better quality to burn than we do—electricity channelled into this state? Not very long, I can tell you. Not very long indeed.

The fact is that the gougers are at work now. I have told you about California, which can be checked out. Under the Democrat government (which is the equivalent of Labor there) 10 years ago the total cost of all electricity used in California at both the domestic and industrial levels was $70 billion for 1990. The figure for year 2000, now that private enterprise owns the electricity generation in California, is $700 billion—a 1 000 per cent increase in moneys generated. It is absolutely impossible.

The same thing is happening in Britain with gas and electricity people there. These people are ripping it off, and you can deal with them only at a federal level, because it is no good trying to deal with them state by state. If the states think they can make a quid out of South Australia or any other state that has been marginalised by the Hillmer Report, then they will do so. In my view it has to be part of the federal document that exists which brought us together in federation by 1901.

The two Independents—Mr McEwen and Ms Maywald—are playing dangerous games, because they are playing with this state's future so that their future can become assured at the next electoral fiesta. I have news for that couple. They supported the amendments moved by the ALP, and their electorates ought to know that. They ought to know that was at the very first part where we started to lose control in this state of having any capacity whatsoever to stand on prices.

Worse than that, the ALP made a 99 year amendment to my proposition of four 25-year blocks, and its legal people made a hash out of drawing up that amendment, which the Liberal government immediately drove a trolley bus through and made it a 200 year lease, which is as good as selling it anyway.

But there is a very short-term life for the generation of electricity in the way we did it here and the way it is done pretty well throughout Australia. At the moment up near the Hebrides, thanks to a young Belfast professor of physics, the British government has spent £100 million on conducting a pilot plant, which is based on tidal power. The thing that is attractive about that is that, until this young physics professor at Queen's University in Belfast developed a particular valve, you could generate power only from the incoming tide; you could not generate power from the outgoing tide. He has invented a valve that will do both, to the extent that the British government has spent £100 million on a pilot station in the Hebrides. That has been going for four years now. We have solar power and wind power here, but my own thought about that is that we have hydrogen fusion power, which is probably the best of all.

In the 1980s, once the oil crisis was over, all the best research and development people in America, Britain and France pulled up stumps and left the development of fusion power. Now that the oil prices are rising again, there may well be a bigger economic push to get back to spending more money on the R&D of alternative energy generating resources. I do not think solar or wind energy is the answer. Certainly, because most of our South Australian cities are coastal, we could use wind energy and solar power for our smaller cities, which are all on the coast—Mount Gambier, Port Lincoln, Ceduna, Port Pirie, Whyalla and Port Augusta. We could cut back the load from our main generators and virtually have only the smaller places needing generating, with the bigger cities getting their power from either solar or wind power. But solar and wind power have only a short lifetime, because of hydrogen fusion.

The question is this: has Robert Lucas done anything wrong that would demand a resolution condemning him? Of course he has not! The Hon. Mr Holloway is too decent a man not to realise that. He knows that. He has done nothing whatsoever wrong; he has been a very good Treasurer for this state. Whilst he continues to be that, he will get nothing but all the support I can muster. I condemn this electorally based resolution; I condemn those who support it; and I applaud those who oppose it, such as Dr Such when he made that statement in respect of defending the Treasurer. The Treasurer does not need defence from us but, for whatever it is worth, I support him with the uttermost last gasps of my dying breath. Long live Ireland!

The Hon. P. HOLLOWAY: I seek leave to withdraw the motion. In doing so I remind the Council that what is before the Council is an adjournment motion. It is the way that standing orders provide in this place for us to discuss matters of urgency. So, in seeking to withdraw this motion I point out that I do not in any way withdraw the allegations in the urgency motion itself.

Leave granted; motion withdrawn.

Members interjecting:

The PRESIDENT: Order! If you want to keep talking will you go outside and talk, please. The business of the day is important.

MATTERS OF INTEREST

UNEMPLOYMENT

The Hon. CARMEL ZOLLO: Today I would like to talk about a very important problem in our community—that of unemployment, and specifically the manner in which we count who is or is not unemployed, which leads to distortions in the unemployment figures. I recently came across an article in *Social Action*, a magazine I have subscribed to now for many years. I do not always agree with the views and opinions of the contributors, but I certainly find that the articles home in on key social issues.

This particular article reported on federal shadow minister for employment Cheryl Kernot's launch of a research policy in February by the Australian institute on measuring unemployment. In this article *Social Action* agrees entirely with Cheryl Kernot's comments. The paper showed how the Australian Bureau of Statistics' methods of measuring unemployment can lead to misleading results.

Several years ago, in another matter of public interest, I talked about precarious employment and the casualisation of the work force. Casual or part-time employees, even if they work for one hour a week, are classified as employed, according to surveys by the ABS. However, as rightly pointed out in the article, a person may, in fact, be looking for full-time work but is unable to find it. This precarious employment impacts on many areas of people's lives but most of all on their security in terms of being able to find housing, obtain consumer goods and, probably even more importantly, in relationships. The official unemployment figure for March 2001 was 6.6 per cent, but many believe that 13 per cent is closer to the truth. Job trends in South Australia indicate that employment is continuing to fall, with 7 600 jobs lost since August last year. Indeed, it is only the continuing falls in the trend participation rate—the key indicator of confidence in the jobs market—which is preventing South Australia's unemployment rate from rising to 9 per cent.

The research paper of the Australian institute noticed several other factors. As opposed to the number of people who are under-employed, the number of people who are working over 60 hours a week is growing. The obvious repercussions for such work hours are the social and health consequences for the individuals concerned and their families. At any one time the unemployment rate can also be reduced by around 2 per cent when you have shifts between those formerly on unemployment benefits going to disability support pensions and, as pointed out, all without creating one single job.

The article rightly points out that the inadequacies in unemployment data are not exactly a secret. The article refers to the McClure report on welfare reforms which highlights some of the factors that came into play last year when people were interviewed. These included the fact that almost one quarter of part-time workers would actually prefer to work longer hours. If these people were able to work the hours they wanted, it apparently would have amounted to 200 000 more full-time jobs. This survey also found that there are 860 000 people who would like a job but are not actively looking for one, so they are classified as being outside the labour force. Quite by coincidence, while driving home last night, I heard Professor Blandy talking about the strong downward trend in jobs in South Australia. People have just given up. In South Australia, some 5 001 fewer people are now in employment

than 12 months ago. Obviously, these factors, amongst others, would increase the rate of true unemployment compared with the actual published figures.

Even more disturbing is the state of affairs reported in the McClure report when in June 1999 there were 160 000 couples with dependent children where neither parent had paid work. Clearly, there is a growing gulf between families who are work poor and those who are work rich. We are seeing more and more households with no member in the paid work force. Some recent research released several weeks ago shows that South Australia has the highest level of poverty in the country before housing costs are accounted for. This research also found that, unlike other states, in South Australia the metropolitan area has a similar level of unemployment to the non-metropolitan parts of the state but a lower level of participation in the work force. I appreciate the need to be positive about falling unemployment, but it is worthwhile remembering that the true figures can be distorted and may be much higher than official figures. It is certainly an issue to which we all need to pay a lot more attention.

RURAL AMBASSADOR AWARDS

The Hon. J.S.L. DAWKINS: On 27 April I had the pleasure of being master of ceremonies at a dinner organised by the Gawler Agricultural, Horticultural and Floricultural Society to recognise Peter Angus, the winner of the inaugural National Rural Ambassador award. Peter was honoured with this title after competing against other state finalists at the Sydney Royal Show last month. The award, which is aimed at promoting youth in rural industry, was organised by the Federal Council of Agricultural Societies and will be hosted on a rotation basis by other royal shows. Young people, both female and male, between the ages of 18 and 30 are eligible to enter the competition at local country shows across the nation.

Peter Angus is 28 years of age and lives at Mallala. While employed at Trinity College's Blakeview Campus as a primary school teacher, he also conducts a White Suffolk sheep stud on the family farm. Peter first became involved in the rural ambassador awards at the 1999 Gawler Show. After winning that competition, he represented Gawler at the regional finals which were conducted by the Northern Agricultural Shows Association (NASA) at Eudunda in February 2000. My wife, Helena, and I were pleased to officiate as two of the three judges at the regional finals, along with Mrs Andrea White, Principal of the Eudunda Area School. Peter was adjudged as the outstanding candidate amongst the winners of the various NASA shows, which extend from Gawler in the south to Quorn in the north. As a result of this success, Peter qualified to compete against the other regional winners from across South Australia in the state finals at the 2000 Royal Adelaide Show last September. Success at that level resulted in his travelling to Sydney to represent South Australia.

Last Friday's dinner was attended by a large number of members and supporters of the Gawler Show and other northern shows, as well as the member for Light in another place. Speeches were made by Mr Dean Noll, the President of the Gawler AH&F Society, and Mr Frank Nicholls of Clare, who is the President of the Northern Agricultural Shows Association. This was followed by an address by Mr Malcolm McCallum of Melrose, who is President of the Agricultural Societies Council of South Australia and also President of the Federal Council of Agricultural Societies. Peter then spoke of his experiences throughout the various stages of the rural ambassador awards and the benefits he had gained during that period. He expressed his hopes of working with all South Australian rural ambassador entrants in developing youth leadership and promoting the involvement of young people in country shows.

Peter was presented with a cheque for $6 000 by Mr Rob Martin, Secretary of the Agricultural Societies Council of South Australia. This scholarship, which was a result of his winning the state rural ambassador award, will allow him to undertake an overseas trip to further his experiences as a rural ambassador. Mr Martin, who is employed by the Royal Agricultural and Horticultural Society of South Australia, has done a large amount of work in developing the rural ambassador awards from a country show level to the point where they are significant state and national awards.

I think members in this chamber would be aware of the work I do in rural communities in relation to regional development. I am very passionate about the development of future leaders in our community, particularly in rural areas. I commend the show societies around South Australia, particularly, for taking leadership in developing the rural ambassador awards. The awards have largely followed through from the old showgirl competition. I do not denigrate the showgirl competition, because my daughter, indeed, was a Miss Gawler showgirl. Certainly, the development into the rural ambassador awards, allowing young men and young women of an older age to participate, is also a way of reinvigorating the leadership of country shows. Along with football clubs and other community bodies, country shows have helped to provide many leaders in rural communities in the past and, as I said earlier, I commend the Agricultural Societies Council of South Australia and the federal body for the work they have done in developing the rural ambassador awards.

WRIGHT, Mr M.J.

The Hon. A.J. REDFORD: I rise today to talk about the member for Lee and the racing industry. Three weeks ago the member for Lee, who I understand in some places is known as the shadow minister for racing, made a rather extraordinary attack on the South Australian Jockey Club committee and its chairman. In his attack he said, amongst other things (referring to the South Australian Jockey Club Committee):

> Sadly, in recent years, they have lost the respect of the industry.

He went on and asserted that Mr John Murphy had denied a cost blow-out in relation to an upgrade of the Morphettville grandstand and office facilities. Later in his contribution, he made assertions that a letter was sent from the SAJC to Thoroughbred Racing SA on 22 December 2000, and that letter showed that Mr Murphy had wrongly denied a number of assertions. Indeed, Mr Wright asserted that Mr Murphy had signed a letter: in fact, when one looks at the letter, one will see that he had not. He asserted that Mr Murphy had denied that the jockey club committee had requested $600 000 from the Thoroughbred Racing Authority, when, in fact, he had not requested that amount. And, finally, he asserted that the request was made this year, when, indeed, the request was made last year.

He then went on in his speech and asked two questions: first, how many members of the committee were aware of the situation; and, secondly, what has TRSA been doing? He then

made some gratuitous comments about the Morphettville track upgrade.

Last Monday night, the South Australian Jockey Club held a general meeting of members. I attended as a member. Michael Wright was there in two forms: he is not a member, but he was lurking like Machiavelli at the back of the hall and, via his staff member, handing out copies of his speech. Indeed, he likes sending out copies of his speeches. He has done it in the past: whole forests have been laid to waste as a result of his activities.

At that meeting, the committee systematically demolished every point made by the shadow minister—and I earlier referred to the signing of the letter, the request for $600 000 and the timing of that request. Every single committee member acknowledged that they were fully informed of all the activities associated with the upgrade of the Morphettville grandstand, despite the assertions made by the shadow minister.

The meeting heard that TRSA had put the request on hold and, indeed, we learnt that TRSA had encouraged the jockey club to ask for $685 000. The shadow minister, it transpires, did not even give the SAJC (a major industry player) or its chair, or TRSA or its chair, the courtesy of an explanation regarding the letter before shooting off his mouth in parliament. How Mr Rann could possibly keep Mr Wright as shadow minister, when he has single-handedly alienated every significant part of the thoroughbred racing industry, with the exception of Mr Balfour, is beyond my understanding.

Indeed, he has been ably aided and abetted by the *Advertiser* journalist Dennis Markham, who I understand records all conversations he has on tapes. On a number of occasions he has specifically denied that he is biased in his reporting in relation to the South Australian Jockey Club committee. Indeed, he has never, on any occasion (and I refer to today's paper), said anything about the ineffectiveness of Mr Wright and his inability to get on with the major players in the industry, all of whom are elected by ordinary members involved in racing generally. Indeed, in today's paper he did not point out that Wright was wrong when he asserted that the jockey club had lost industry respect; or that Wright was wrong when he asserted that there was a crisis of confidence in the jockey club. He tacitly acknowledges that Wright was wrong in today's paper when he states, in the article headed 'Committee out in front and rocketing', as follows:

> The mooted heavyweight stoush between the South Australian Jockey Club committee and 300 members on Monday night finished up resembling one of those lop-sided Mike Tyson mismatches of a bygone era.

Indeed, this whole affair has been nothing but distracting to the jockey club committee during a time of great change and great challenge. It is a shame that one of the shadow ministers who would purport to be a minister in the next government (in the unlikely event that they are successful) has single-handedly alienated every part of the thoroughbred racing industry based on wrong facts.

Time expired.

REGIONAL DEVELOPMENT

The Hon. R.R. ROBERTS: Today I wish to raise matters of regional development. On the last occasion that I talked in this Council about regional matters in Port Pirie I condemned both the state government and the federal government in respect of the closure of the Telstra centre at Port Pirie. I made some fairly strong remarks, because I have a strong respect for the people in my community, and I believe that parliament is here to protect their interests.

Having made those comments, I point out that an article appeared in the *Recorder*. The local member, Mr Rob Kerin, had taken offence at my raising matters of concern to the people of Port Pirie in, as he said, 'cowards' castle'. He said:

> He uses the cowards' castle to distort the facts and make absolute unfalse statements about myself.

My interpretation of an unfalse statement is that it is a true one. So, I thank him for saying that what I did say was true. The article contradicts his stance, because he was offended when I said that he was on a list of people to be advised of the close of Telstra 10 minutes after it happened. In further commentary in the article, he points out that he had been doing an ABC interview and he was questioned about it, and 10 minutes later he had a phone call from Telstra confirming that it had happened. So, one wonders what the member for Frome and Deputy Premier has been doing, or where he was at the time that the interview took place. He also said (and I thank him for this):

> Mr Roberts should take more notice of what has been achieved in the region. He should have a good look around regional South Australia and compare it with seven years ago.

I took him up on his invitation. I had a brief look around, starting in his own area. For a start, seven years ago, we owned ETSA. We had dozens and dozens more jobs in ETSA than is now the case. We had a highways camp at Crystal Brook which employed some 40 to 50 people. We had extra jobs in the EWS, as it then was. But in that seven year period we privatised water and we increased the cost to regional South Australians by some 30 per cent. So, I thank him for that. I am certain that the people living in regional South Australia do not.

We did not have the GST. We did not have an emergency services levy and, in fact, we had 500 more places in our hospitals that were being used. We had 41 extra schools. We were told by Dean Brown (alongside of whom the Minister for Regional Development sat) that there would be no more cuts in education. Over the four years of the Liberal government, it cut education spending by a cumulative $130 million, in real terms. We have 18 000 fewer people now receiving School Card, and it is not because they are doing better, because the latest survey figures on incomes in rural South Australia indicate that the member's region is one of the lower areas. Again, this is a mean government.

When we sold ETSA, we also put people in regional South Australia in a position where they would ultimately pay between 30 per cent and 80 per cent more for electricity. No thanks there, Mr Kerin. There also have been cuts in government funding in hospitals. Dean Brown said in his policy speech that public hospitals would receive an extra $6 million a year to begin the task of halving waiting lists in his government's first term and that, by the end of the first term, $40 million a year would be redirected to cut hospital waiting lists. That has not occurred either. The waiting lists have become larger.

There are some 25 areas of concern, and in the time allowed for this contribution I will not be able to mention all those issues. But it is very clear that, since this Liberal government has come to power, in the last seven years, it has not listened to its constituency, it has not represented the constituency and, indeed, rather than use cowards' castle (which I thought was the proper place), I will continue to

defend the people living in Frome and people living in country areas. But the Deputy Premier has been true to his word, because I cannot remember a contribution that he has made in the House that has defended Port Pirie or Frome. The only contributions he made when he was a backbencher were dorothy dixer questions on behalf of the then Minister for Primary Industries—who, in fact, was the person who, in the first coup within the Liberal government, was the person he replaced. Also, seven years ago one could have a recreational fishing net and enjoy a little recreational fishery, which the Deputy Premier then supported but now no longer does.

Time expired.

INTERNATIONAL MIDWIVES DAY

The Hon. SANDRA KANCK: Saturday 5 May is International Midwives Day. The day will celebrate continuing progress in returning midwifery from a medical base model to one which is community based and one which is focused on pregnancy being a state of wellness and not of illness. Until the 1920s, midwives were considered a separate profession from nursing. Successful attempts by nurses and medical practitioners to increase their spheres of influence resulted in community midwives losing their autonomy. The opportunity for midwives to once again be recognised as a profession separate from nursing came in 1999 when parliament debated the new Nurses Act but, apart from retaining a separate register for midwives, this parliament unwisely rejected that opportunity.

In nearly every industrial country midwifery is an independent profession with its own registration board. The World Health Organisation views midwifery and nursing as two distinct professions. Over a period of six years I have come to know midwives as the most proactive and passionate group of professional people with whom I have worked in my time as an MP. Despite being hampered from time to time by the narrow minds of the medical establishment, nursing bodies and an out of touch health bureaucracy, midwives in this state have continued to advocate for best practice models which bring the emphasis of maternity services back to women. One exciting development is the new Bachelor of Midwifery course to be offered at both the University of South Australia and Flinders University.

The non-medical model of child birth provides continuity of care and continuity with the same carer throughout pregnancy and birthing to the benefit of both the mother and the baby. Pregnancy and child birth are normal for women and medical intervention ought only occur for the small percentage of cases that are abnormal. In developed countries, the medical model for delivering babies has resulted in high caesarean rates and intervention rates, well above the World Health Organisation's recommendation to not exceed 15 per cent. South Australia in particular has the nation's highest caesarean rate, which in 1996 was around 24 per cent. Queen Elizabeth Hospital, with the caesarean rate of 16 per cent—the best in the state—has had its maternity services slowly but surely eroded away by the present government.

This same lack of government funding and policy commitment has eroded birth choices for women in rural and regional areas. If maternity services have been undermined for white Australian women, then they are almost non-existent for indigenous women. A midwife who has recently spent two months working in Alice Springs was mortified at the quality of service offered to our most vulnerable women. Overseas trained male doctors from countries where it is culturally inappropriate to care for birthing women are treating Aboriginal women who also deem birthing to be women's business. These doctors were uncomfortable in even examining the women and preferred to consult with the women's male relatives rather than the women themselves.

Midwives are leading the charge for appropriate peri-natal treatment by advocating for intakes of Aboriginal women to the new midwifery degree courses. Currently there are no Aboriginal midwives practising in South Australia. The northern community midwifery project is also a shining example of women focused maternity services. That project has demonstrated how a publicly funded continuity of midwifery care model can work within a community based service model. It has operated for the past 2½ years and has offered a service to the socially and economically disadvantaged in our community, in particular indigenous women. Despite its success, its future remains uncertain because there is no further guaranteed funding.

I understand that the Women's and Children's Hospital is about to embark on a midwifery case load model, which has a midwife allocated to a group of women in a continuity of care model—another positive step forward. Although these changes are happening, midwifery still needs to be recognised as a separate profession. The new midwifery degree will produce graduates who will not fit into the current registration model for nurses because, quite simply, they will not be nurses. We as legislators will be forced to confront this.

Midwives are driving change from the bottom up and are changing community attitudes and expectations. Midwifery lost its professional voice by an act of parliament in the 1920s—parliament can restore it.

GIFT OF LIFE GARDEN

The Hon. J.F. STEFANI: Today I wish to speak about the establishment of the Gift of Life Garden which was officially dedicated by His Excellency the Governor of South Australia, Sir Eric Neal. The Gift of Life Garden, which is located at the Flag Plaza, Port Road, Hindmarsh in the middle of the median strip opposite the Entertainment Centre, was launched on 25 February this year by the Minister for Human Services (Hon. Dean Brown). The ceremony was a very moving and emotional event attended by more than 250 donor families, together with other special guests, including the Hon. Trish Worth, federal member for Adelaide, the Mayor of the City of Charles Sturt, Mr Harold Anderson, Mr Bernard Morellini, President of GIFT, and Ms Karen Herbertt, Manager of the South Australian Organ Donation Agency.

Some donor families travelled from remote country areas to share this memorable and historic occasion, which paid special recognition to their loved ones. In April 1999, I was fortunate to attend the Inaugural National Forum on Organ and Tissue Donation in Canberra where I represented the Hon. Dean Brown. The forum was chaired by His Excellency Sir Eric Neal, who is the National Chairman of Australians Donate. I have also been privileged to attend three other national forum meetings and learn more about the work of Australians Donate, as well as the important work undertaken by our skilled teams of medical specialists who work in our hospitals throughout Australia. These specialists carry out organ and tissue transplantation.

The forums provided the opportunity for many impressive contributions and presentations. The donor families were also present to make their contributions to the proceedings. It was

during a presentation by a donor family representative that I was inspired to work for the establishment of the Gift of Life Garden. The idea to establish a rose garden was to express gratitude and to pay tribute to the many donors and their families for making a new life possible, hence the name 'Gift of Life Garden'. South Australia is the first state in Australia to establish such a rose garden, which is located in a prominent public area. This will provide community focus and a greater awareness of the need for organ and tissue donation.

Each year during Organ Donation Week a Reflection Rose, the national symbol for organ donation, will be planted in the garden to say thank you to the donors and their families. This project would not have been possible without the support of His Excellency the Governor of South Australia, Sir Eric Neal, who graciously dedicated the Gift of Life Garden and encouraged me to pursue the idea during my attendance at the inaugural forum. Sir Eric also planted the first reflection rosebush as a tribute to the donors from 1964 to 1999.

I would like to acknowledge the spontaneous support given to the project by the Minister for Human Services (Hon. Dean Brown) who launched the Gift of Life Garden and planted the second Reflection Rose bush as a tribute to people who donated organs during last year. I express a very special thank you to the City of Charles Sturt, and in particular its mayors, Mr John Dyer and Mr Harold Anderson, who, together with a team of dedicated council staff, provided invaluable assistance to make this project possible. I wish to acknowledge the special contributions made to the project by Mr Bernard Morellini, President of GIFT, and Ms Karen Herbertt, Manager of the South Australian Organ Donation Agency.

In conclusion, I would like to acknowledge the work of the Hon. Dr Michael Armitage, who, as Minister for Health, was the driving force in establishing South Australia as the national leader in organ donation. Finally, I pay a very special tribute to the donors and their families who through their great generosity have given many other people in our community the chance of a new life.

TOBACCO SMOKE

The Hon. NICK XENOPHON: Earlier today I attended a media conference at the Royal Adelaide Hospital which was attended by leading health groups and health lobbyists on the issue of environmental tobacco smoke—environmental tobacco toxins would be a more accurate description—in respect of their support for an amendment to a bill that has been introduced into the House of Assembly by the member for Hammond, Mr Peter Lewis, which is identical to measures that I tabled in this Council some two years ago in order to provide for the banning of smoking in gaming rooms and in the Adelaide Casino.

At the media conference today, those in attendance included Dr Andrew Ellerman, Manager of Quit SA, Associate Professor Dr Kerry Kirke, Executive Director of the Anti-Cancer Foundation, Mr Bob McEvoy, Executive Director of the Heart Foundation of SA, and Dr Michael Rice, State President of the AMA. Also in attendance was Ms Anne Jones, the National Executive Director of Action on Smoking and Health (ASH) who flew in from Sydney to be part of this media conference. She outlined the latest developments in relation to smoke-free gaming rooms and casinos and indicated that South Australia was lagging behind.

A few moments before the media conference, we received news from the New South Wales Supreme Court of a case involving Mrs Marlene Sharp, a 62-year-old retired bar attendant who worked at a hotel and a club in Port Kembla, who was awarded $450 000 in damages for laryngeal cancer caused by passive smoking. This jury verdict was a landmark decision of the New South Wales Supreme Court.

The case went on for six weeks. The legal fees were enormous because the RSL, which operated the venue in this case, contested the matter. It wheeled out experts, patsies from the smoking industry and the tobacco lobby, to give evidence against the overwhelming evidence that passive smoking is a health hazard and that those who work in the hospitality industry, day in and day out, are particularly susceptible to health conditions including cancer, asthma and emphysema as a result of being subjected to cigarette smoke.

It seems extraordinary that in 1997 this parliament had the courage to pass legislation in favour of smoke-free dining rooms. That legislation has not rung the death knell for the restaurant industry but it has made a big difference to the occupational health and safety of people who work in dining rooms. However, this parliament does not seem to have the courage to tackle the gambling industry in this state to provide a smoke-free Casino and gaming rooms.

In 1964, the US Surgeon-General in a landmark statement indicated that there is incontrovertible medical evidence that smoking causes health problems and that smoking can kill. In February 1991, Justice Morling of the Federal Court, in a case brought by the Federation of Consumer Organisations against the Tobacco Institute of Australia, found in favour of the consumer organisations that passive smoking does cause health problems, that the Tobacco Institute was wrong, and that it was using false and misleading conduct by saying that there was not a problem with respect to passive smoking.

Despite that finding of the Federal Court over 10 years ago, the Australian Hotels Association in a media release today is engaging in scare tactics. It is engaging in a disgraceful campaign that says that this is all about the rights of smokers. That is a virtual denial of the health impact on workers in these venues. Last night in this place, outside the precincts of the chambers, a leading hotelier denied that there is a link between passive smoking and health problems.

I hope that this parliament will favourably consider imposing a ban on smoking in gaming rooms and the Casino. We must take note of the New South Wales Supreme Court decision which was handed down earlier today in the case of Mrs Marlene Sharp. We should at least protect the health of workers in the hospitality industry, particularly in gaming rooms and the Adelaide Casino.

Time expired.

LOCAL GOVERNMENT PARTNERSHIPS PROGRAM

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement made today in another place by the Minister for Local Government regarding the Local Government Incentive Program.

Leave granted.

STATUTORY AUTHORITIES REVIEW COMMITTEE: ANIMAL AND PLANT CONTROL BOARDS AND SOIL CONSERVATION BOARDS

Adjourned debate on motion of Hon. L.H. Davis:

That the report of the committee on an inquiry into animal and plant control boards and soil conservation boards be noted.

(Continued from 11 April. Page 1334.)

The Hon. CARMEL ZOLLO: Having been a member of the Statutory Authorities Review Committee at the time this inquiry commenced, I would like to take the opportunity to add my comments. I found the inquiry to be a very rewarding one in which to be involved. Our future well-being is of course very much dependent on the health of the environment that surrounds us, and the administrative structures that we have in place to manage that environment are important.

When the committee commenced its inquiry to look at the relationship between, amongst other things, soil conservation boards and animal and plant control boards, what became obvious quickly was the difficulty of trying to view any one sector of natural resource management on its own. I was fortunate during my time on the committee to be able to travel to Eyre Peninsula, the Spencer Gulf region, the Mid North, the Murraylands, the South-East and the Coorong. I did not get the opportunity to visit the Adelaide Hills as I had left the committee by then.

I was concerned at the degradation that we witnessed in several regions. When we think in terms of the history of white settlement in this country (a mere speck in time) and all our introduced agricultural and animal husbandry practices and what they have done to this often fragile land, one could have reason for being somewhat depressed with it all. However, it would also be fair to say that over the past 15 years or so we have seen a better understanding or move toward stopping many practices that are starting to arrest this degradation, particularly soil degradation.

We saw several examples of remedial practices: dryland salinity out of Port Lincoln (drains along roads), the drainage network in the South-East, alley farming and wetland conservation in the Coorong. Many of the remedies are simply commonsense: allowing the uninterrupted flow of water (as it was), stopping wind erosion, etc. Some of the concerns are truly enormous. I refer to Chowilla Station and the implications of harnessing too much of the Murray River and what it means for the low lying land that once flooded on a regular basis. These are certainly not concerns that can be solved by local communities alone. The importance of the Murray River to South Australia is acknowledged by all members. I certainly raised this matter in my maiden speech to this place in 1997. The Murray River is linked inextricably to the fortunes of this state and, to a lesser extent, to other waterways.

I am of course not now able to speak as a committee member, but I feel that one of the best examples of integrated regional natural resource management came from our visit to the South-East. This region of our state has a South-East Natural Resource Consultative Committee (SENRC). The concept of SENRC was developed in 1995 by several members of key natural resource management bodies in the region who were concerned that there was some overlapping in decision-making in relation to natural resources.

I understand that, at present, SENRC comprises representation from 10 different groups, including representation from the South-East Economic Development Board. The sharing of resources and administration within a body that has a strategic overview of all natural resource management in the region is certainly desirable. I also note that this committee's boundaries align with the Natural Heritage Trust boundaries for the South-East. I am, of course, aware of the draft integrated Natural Resource Management Bill which is now available for public comment. I think there would be consensus for integrated natural resource management. The manner and processes by which such integrated management is achieved is no doubt the issue.

We have a great challenge in South Australia because of our varied land quality and land use. I have previously talked with some optimism about the increase in interest in and awareness of environmental issues. Our soils, plants and animals cannot exist without water. Catchment water management boards, both in metropolitan and regional South Australia, have perhaps added the most important dimension of all—resources for reasons of environmental and economic sustainability. No doubt their place in any integrated management of our resources is paramount.

One thing I did notice when hearing evidence was the fact that sometimes certain types of agricultural practices have been allowed to go ahead without what I consider to be appropriate planning approval. To my way of thinking it seemed to be the missing link—no doubt the one that ended up causing the most damage. I am aware that often planning is a no-win situation and a very difficult one to resolve. However, when we are considering sustainable practices that can cause irreversible or long-term damage I do not think we should shy away from such responsibility. In some cases there appears to be input from local government in relation to planning, but not always.

As mentioned by the Presiding Member of the committee, evidence was taken from 96 witnesses and 85 written submissions were received. Apart from providing background about the 30 animal and plant control boards and the 27 soil conservation boards, the report gives an overview of many other natural resource groups in South Australia.

As far as possible, it was important to obtain the view of all resource groups because in the end it is difficult to view one or two aspects of the environment in isolation. It was also important to take evidence from as many people as possible. In many cases people serve on environmental boards and committees—and often more than one, which is an issue in itself—without any recompense or with minimal recompense. They give of their time and talent because they understand the critical importance of looking after our environment and what that means to their and their children's future.

The distance that often needs to be travelled in the bush is another difficulty for many people. The need to continue the involvement of grassroots people in any new integrated model was obvious to everyone. Without the goodwill and knowledge that comes from local and regional people interested in the environment, any new structure would not be the success we would hope it to be.

I have noted the recommendations of the committee, in particular the recommendation to amalgamate the soil conservation and animal and plant controls boards over a five year period, with the membership of the amalgamated board being rationalised over a two year period. I am pleased to see such a recommendation by the committee, given the breadth

of local knowledge and commitment that was obvious in the evidence it took.

The committee also recommended that the boundaries of the proposed land management boards where possible fall within the boundaries of the proposed integrated natural resource management regions. The committee further recommended that the Natural Heritage Trust regional boundaries be used for a starting point for the proposed INRM regions.

In the next few years we will see some legislative changes to the manner in which natural resources are managed in South Australia, some arising from the draft Integrated Natural Resource Management legislation and some hopefully arising from the committee's recommendations. The report is an important resource in relation to the history of resource management in the state as well as for discussing initiatives, developments and the future of natural resource management in South Australia.

As a former member of the committee, I would like to take this opportunity to thank the two staff members of the Statutory Authorities Review Committee, namely, Miss Kristina Willis-Arnold and Mr Gareth Hickery, for their diligence and hard work.

The Hon. J.S.L. DAWKINS: I have great pleasure in speaking to the motion. The inquiry into soil boards and animal and plant control boards has been very interesting. As you, sir, are aware, those boards have existed around South Australia in varying forms for a significant period of time. They rely very much on the efforts of volunteers, have differing boundaries and vary in the way in which they operate in relation to local government.

The history of the boards in both these areas is interesting. Previously there were attempts to bring them together but this met with considerable opposition in certain areas of the state. I remember, as you would, sir, in the mid 1980s when the pest plant boards and vertebrate pest boards were brought together that there was considerable unhappiness and that some people felt there would be great problems as a result. We could relate history and say that that has not been the case.

In relation to earlier attempts to amalgamate soil boards and animal and plant boards, in the last five years or so there has been a significant change in the way in which natural resources have been managed. The current federal government has introduced the Natural Heritage Trust; Landcare groups have been established in many parts of South Australia; and local action planning (LAP) groups have been established in many areas, particularly those close to the Murray River. So, there has been a great sea change. In many areas of the state we have also seen the establishment of water catchment management boards.

Like the Hon. Carmel Zollo, I was very pleased to have the opportunity to visit a number of areas of the state as a part of the committee's inquiry. There were excellent examples of people involved in a range of natural resource groups working together—indeed working together very well. The Coorong, which has won a national award, is one of those areas. When the three councils amalgamated a few years ago they took the opportunity to make sure that the soil board, the animal and plant board, Landcare and other groups all shared the same boundaries, and that obviously has been of great benefit to the people in that district council area.

On Eyre Peninsula we have seen the Eastern Eyre Animal and Plant Board and the eastern Eyre soil board equivalent wishing to amalgamate. Although they found a legislative impediment to that, we noted the great wish to work together, and that is as it should be. I was alarmed at the evidence we received of the presiding member of a soil board who did not know who his opposite number was on the local animal and plant board, and that is quite frightening.

Another instance concerned a significant amount of work done preparing a regional soil strategy without any consultation with the animal and plant board in that area. So, certainly some parts of the state are ahead of others in the way in which they work.

The key recommendation of the inquiry was that soil conservation and animal and plant control boards should be amalgamated over a five year period and that each amalgamated board should initially include all existing board members. However, the membership of the amalgamated boards should be rationalised over a two-year period. The committee suggested that the amalgamated boards be known as land management boards. Of course, the Animal and Plant Control Commission and the Soil Conservation Council would need to be amalgamated and renamed the Land Management Council.

The committee also agreed that if land management boards were established they would need to be adequately funded by the state government in order to build on the work of the soil boards and the animal and plant control boards. The committee also recommended that appropriate fees and expenses should be paid to members of those boards. The current situation is quite inconsistent and adds to the burden of the volunteers who make up those boards. In some cases, the same people are on both of the boards.

The committee also recommended that the land management boards employ authorised officers to carry out works directed by the board. This follows the model currently used by the animal and plant boards through their close relationship with local government. It is a system that has worked very well because the authorised officers have the power to enforce the law to make people do the right thing. It is much easier for them than the soil boards, which do not have employees as such; they have very limited access to the employees of Primary Industries and Resources SA. It is more difficult for a soil board chairman to tell his neighbour to lift his game in the way he is looking after his soil.

The committee also recommended that the relationship between land management boards and local government should be maintained and that local government should not be disadvantaged in any new funding arrangements for these boards. That is a very important issue. I currently serve on the State Local Government Partnerships Forum, which is looking at ways in which state and local government can better work together and whether the roles can be better identified in relation to which arm of government can do a job better. In this sense, it is very important that local government, if it picks up extra responsibilities in relation to the soils area, does not have the burden of additional funding.

I will not go through all of the 15 recommendations made by the committee but I will summarise one or two others. The committee recommended that the draft Integrated Natural Resource Management Bill (which is currently out for consultation) be supported subject to some appropriate amendments resulting from the acceptance of this report. The committee also recommended that land management boards and catchment water management boards should be key players in the integrated natural resource management groups

and should work closely together to ensure an holistic approach to natural resource management in South Australia.

The committee quite importantly suggested that the integrated natural resource management groups suggested in the legislation should liaise closely with regional development boards and local government. I strongly support that because regional development boards, while they have an economic focus, really do have a role to play, along with local government, in natural resource management issues.

Finally, the committee recommended that in five years a further review of natural resource management in South Australia be undertaken by the state government, possibly in conjunction with the Statutory Authorities Review Committee, to examine the effectiveness and efficiency of any new structure resulting from the draft INRM bill and this report. This review should make recommendations as to any further improvements for the effectiveness and efficiency of natural resource management in South Australia.

In conclusion, I thank all those who took the time to contribute to our inquiry such as those who gave evidence or submitted a submission. I thank our staff—Kristina Willis Arnold and Gareth Hickery—for the way in which they undertook the tasks involved with this inquiry. I also thank my fellow members of the committee, including, of course, the Hon. Carmel Zollo, who is now no longer on the committee. The cooperation we have on that committee and the way in which we work apolitically on the issues put in front of us is very good. I am fortunate to be a member of two standing committees of the parliament and both of them work very well in that manner, and I am very appreciative of that fact.

In closing, this was the first inquiry of the Statutory Authorities Review Committee that I was involved in that had a key focus on rural areas. As much as I do a lot of work in the non metropolitan parts of the state, I learnt quite a deal from this inquiry. I certainly had it emphasised to me the great work done by volunteers in our communities, and without their work there would be enormous problems in meeting the expectations of our community across South Australia. I commend the motion to the chamber.

The Hon. R.K. SNEATH: The first legislation goes back as far as 1875 when an act was introduced to control rabbits which were a real pest at that time and have been a pest throughout this century as well. I certainly played some part in the control of rabbits years ago when I was a rabbit trapper with my father. Of course, other pests were discovered and over the years changes had to be made to the various acts.

The Hon. Legh Davis has already covered the committee's report at length, I will endeavour not to repeat his remarks. The environment is an extremely important issue and it is becoming ever more accepted that we need to conserve and preserve it, not only as a precious resource but as our very means of survival. Hence, the initial creation of boards such as those for animal and plant control, soil conservation, and catchment water management boards. Furthermore, it stands to reason that an inquiry should be made into these boards down the track to ascertain how they are operating in today's climate. This has been the committee's role.

The board found that these boards were making a significant and positive contribution to effective resource management but because their activities and duties overlapped in a number of areas the committee found that it would be of great benefit if they amalgamated. An opening would then be created to fix problems that volunteers have in enforcing the act. In clarification, currently it is sometimes very hard for volunteers to enforce the act and it is necessary sometimes for a volunteer to enforce the act in relation to a neighbour, which makes it very difficult.

People reading this report will find some recommendations and discussions on that to employ full-time officers to take that responsibility off the volunteers, which I think is very warranted progress on these boards. The volunteers have played a major role for years, travelling miles to have meetings and to make sure that these pests do not take control and that soil conservation is looked after in the best interests of all, not only the people in the country communities but also the people in the city communities who benefit from all the services that the volunteers have performed in providing a safer and better environment.

It is recommended that the Animal and Plant Control Commission and the Soil Conservation Commission be amalgamated, creating a land management council. As the Hon. Legh Davis has pointed out, the committee has nominated a number of years for this to take place—the committee would like to see it happen over five years. I would imagine that in the first instance some people who have given their time freely and made themselves available on these boards would be reluctant to amalgamate and, certainly, from hearing the witnesses, some would be very supportive. It is probably something that the committee has recognised in recommending a number of years for this to be achieved. Like the local government amalgamations that took place not long ago, people take some time to come around to change. I think that, eventually, knowing the calibre of people who have given their time freely on these boards, they will see the advantages and take on board much that is in this report.

Funding arrangements are also proposed to come under review for renegotiation, as they are currently different for the different boards. This would ensure that there is no extra funding burden on local government. It is important to note the committee's emphasis on the need for adequate funding to be provided to the newly created boards. If accepted, the committee's many recommendations will require legislative change. I do not intend to run through any of the recommendations as members before me have already done that, but I do encourage members and people in all communities to read what I consider to be some very thoughtful recommendations.

It is the committee's belief that a more integrated approach to natural resource management in South Australia is necessary—and it is the committee's hope that all members of parliament will recognise this need—to keep South Australia at the forefront of environmental issues. We have been at the forefront for many years, but we should not rest on our laurels; we should do everything we can and adopt the recommendations of this report. Doing that will certainly keep us at the forefront of environmental issues.

I will finish by thanking Kristina and Gareth, our support staff, who have done a wonderful job. I thank the witnesses who took part and freely gave their time and the evidence that we needed to compile our report. It was also pleasing to see the number of members on the committee who had country or farming experience. The Hon. John Dawkins's farming experience came to the fore, and I think the only weed he did not make reference to was marijuana. It was an experience for me, and one that I thoroughly enjoyed. People who look at this report will see that a lot of time and effort was put into this committee, and if they pick up the recommendations of the report I think that they will be well rewarded.

The Hon. L.H. DAVIS: I thank members for their contribution to the debate. As has been mentioned, this was an important report. Its timing was fortuitous in the sense that the government has been moving towards the introduction of integrated natural resource management legislation for some time. I know that Labor Party policy is on the record as being supportive of integrated natural resource management. The report of some 150 pages is very detailed. It reflects the views of the many volunteers as well as paid officers across South Australia, not only in land management but also in water resource management.

I think the one indelible impression I have from the many days we spent in the field as well as the many witnesses who gave evidence to us both in writing and orally is that South Australia is very fortunate with the quality of the volunteers we have in the field, many of whom travel many kilometres to attend meetings. The cooperation and communication with local government in many areas was also impressive. I must particularly pay tribute to the work of primary industries in South Australia. PIRSA has many fine executive officers, some of whom provided valuable evidence to the committee.

I came away fortified in my view that natural resource management in South Australia is in very good hands. Indeed, there seemed to be a common view, not only from talking amongst people in South Australia but through anecdotal evidence from interstate, that South Australia is indeed a leader in natural resource management in Australia. The committee's unanimous view was that that leadership can be consolidated and, most importantly, for the benefit of natural resource management in this state, if we further integrate the land management boards which currently exist—namely animal and plant control and soil boards—to take advantage of the current legislation which is out for review from the government, that is, integrated natural resource management.

I believe that the committee's recommendation for the amalgamation of those two streams in land management can be made part of the draft legislation, which is currently being reviewed by interested parties. I would hope that that recommendation, together with the other unanimous recommendations of the committee, can make a constructive contribution to what is undoubtedly a very important debate, whether we are talking about the Murray River, water in the South-East, salinity issues or weed and soil issues and erosion across the state. They are all important, for the benefit of not only regional and rural South Australia but also metropolitan Adelaide.

Motion carried.

DEVELOPMENT (ADULT BOOK/SEX SHOPS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 April. Page 1335.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): This bill was introduced by the Hon. Terry Cameron. I will make some remarks and then seek leave to conclude, because only today I learnt that, because it is a private members bill, I must take a recommended position to my joint party, and I have not yet done so. The next opportunity will be Tuesday week. The primary purpose of this bill is to introduce into the Development Act 1993 a general prohibition on the location of adult book/sex shops within 200 metres of all schools, kindergartens and child-care centres. The proposed prohibition will override any valid development approval and/or existing use rights.

I take the opportunity, in addressing this private member's bill, to provide some background about the development system in South Australia and put this bill in that context. In South Australia, development applications for building work and/or changes in land use must be assessed, usually by the local council, solely against the provisions of the relevant development plan. To assist in this assessment, many land use terms are defined under either section 4 of the Development Act or the development regulation schedule 1. It is also possible to define a land use term in the development plan but it is only the City of Adelaide development plan that currently uses such definitions.

I am advised that the term 'shop' is defined in the regulations to include a wide range of retail and personal service establishments, including all kinds of bookshops. Some kinds of 'shops' are also given specific definitions because of their different external planning impacts, for example, hours of opening and car parking requirements. For this reason, carpet stores, furniture shops and electrical goods outlets are all defined as 'retail showrooms'. The separate definition enables councils to develop separate policies for these land uses. In South Australia, 'adult bookshops' have been included within the generic definition of 'shop'. They have not been separately defined because they have similar traditional external planning impacts as other kinds of bookshops and, rightly or wrongly, planners have largely ignored the social impacts of adult bookshops. They have taken it purely on external appearances and existing use rights.

Therefore, while the development application is required for an 'adult bookshop' that involves a change of land use, for example, from an office, such an application must be assessed against the provisions applying generally to shops in the relevant development plan. In some zones this will mean that the application for an adult bookshop will be complying—that is, in centre zones—and must be approved without the opportunity for public notification. Furthermore, no development application would be required if the adult bookshop was simply moving into an existing shop, that is, a building previously used by a second-hand bookshop or a greengrocer or, in fact, any other type of shop.

That is, essentially, the planning background. I want to make a very brief reference to the Development Act itself, because a key feature of this state's integrated development assessment system is that all development assessment policies for a development application can be found in the one location, and that is the relevant development plan. So, anybody who wanted to undertake a development or any person involved in the assessment of that development, or any person from outside who wanted to get an understanding of our planning and development system, would go to the one plan—the relevant development plan—and would not go to the act, a plan and all over the place. We have sought to get it all into the one document.

One of the concerns that planning officers have in terms of this bill is that it is a departure from what we have worked towards for years, and that is getting all the development issues into the one development plan for the respective local council areas. For some time with planning officers I have talked through the issues that the honourable member has raised in this bill. They have argued that it is a radical departure from the philosophy behind the act and the way we have progressively advanced to what is generally regarded as

the best planning system in Australia in terms of having it 'easily'—I put that word in inverted commas—and comprehensively addressed in the development plan for that council area. I am also told that this bill seeks to override existing use rights and valid development approvals that have already been granted and, therefore, it is retrospective. There is a whole range of people, not only in planning law and the profession but also the Attorney and the legal world, who are anxious about that aspect of the bill.

So, the honourable member, in my view, has raised a very valid issue. The Development Act, as I said, does not generally deal with moral or social issues, and this has been quite a testing exercise for Planning SA to think through. I have been presented with about nine options which we could address on what is, I think, an important issue to address. The last three options, which came before me this morning, I must present to my party room but I advise that I believe one should be advanced by me in terms of recommending government support for this measure introduced by the Hon. Terry Cameron, but my recommendation would be that the honourable member may consider an amendment.

The three propositions, from nine, that have been presented to me are to amend the bill to relocate the definition; to delete the locational prohibition and the retrospective prohibitions; and for the minister to be prepared to undertake a statewide ministerial PAR. The reason for that approach is that one can make a provision in the act in some form but, because of the way in which the honourable member has proposed it, it is difficult to give an undertaking that it will be applied by any council, because there are 95 development plans across South Australia and approximately 1 500 non-complying lists. To apply the provisions which the honourable member has proposed in this bill to 95 development plans and 1 500 non-complying lists, I am told, would necessitate engaging officers to work for a minimum of four to six months to bring this matter to a head in terms of interim operation, and then it would have to go through a range of consultation processes. I do not necessarily think that is what the honourable member had in mind, but I would like to discuss that with him further before I take this matter to my party room.

I have also been advised that, as a second option, we could amend the bill to relocate the definition and the prohibition and to delete the retrospective provisions but not advance the measure by a ministerial PAR. I have given reasons, in addressing option one, why there would be some difficulties in advancing a ministerial PAR on a statewide basis. The trouble is that, if you do not do it, you leave it simply to the discretion of councils, and I do not believe that that is what the honourable member would wish in terms of his bill, given the sincerity with which he has presented the issues in this place. It is certainly not what I would be prepared to accept, knowing the planning system—planners and councils. I would not have enough faith that councils would advance the measures within any respectable timetable, if ever, through amendments to their PARs, no matter what this parliament said.

So, at this stage, subject to speaking to the honourable member, I am considering taking to my party room a third option, which is simply to amend the bill to delete the retrospectivity provisions. If the honourable member was prepared to entertain that, I would argue that it would be the simplest and most effective way forward. It would only require a single line amendment to the bill. It certainly would not get the hackles up of the Attorney and others about the retrospectivity. I think it would be easier to accommodate within the technicalities of the Development Act. It certainly would not be as costly or as time-consuming as advancing a ministerial PAR.

I am told that there are still good reasons why planners would not even want this simple approach. But, as I said, if the honourable member is prepared to entertain it, I am certainly prepared to advance it. I am told that it does fail to promote the government's one stop shop approach for locating all development assessment policies within development plans; that it is a single issue solution which the Development Act does not facilitate with any other measure. If we went with this measure, what would we be unfolding in terms of precedents? That has the planning profession upset, having fought so long to get it all into the one bill.

I wanted to speak at this stage and then seek leave to conclude, as I said at the outset, simply to put on the record some of the issues that highlight again how complex the planning and development system is, and how, with respect to a matter as reasonable as that which the honourable member has brought forward, it is difficult to always advance even the best ideas. But if the honourable member is prepared to speak to me, we will see how we can progress the issue, and I commend him for bringing it before this place. I will just have to get around the planners. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

DAIRY INDUSTRY

Adjourned debate on motion of Hon. Ian Gilfillan:

I. That, in the opinion of this Council, a joint committee be appointed to inquire into and report on the impact of dairy regulation on the industry in South Australia and, in so doing, consider—

(a) Was deregulation managed in a fair and equitable manner?

(b) What has been the impact of deregulation on the industry in South Australia?

(c) What is the future prognosis for the deregulated industry?

(d) Other relevant matters.

II. That, in the event of a joint committee being appointed, the Legislative Council be represented thereon by three members, of whom two shall form a quorum of Council members necessary to be present at all sittings of the committee.

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

IV. That a message be sent to the House of Assembly transmitting the foregoing resolution and requesting its concurrence thereto.

(Continued from 11 April. Page 1338.)

The Hon. P. HOLLOWAY: The opposition will support this motion, which has been moved in response to significant concerns from members of the dairy industry about the process of deregulation. As we are all aware, deregulation was brought about through an agreement between the commonwealth and the Australian Dairy Association. The opposition in this chamber reluctantly supported dairy deregulation. We had little choice, given that an agreement had been negotiated at a national level. Had this state remained outside that, dairy farmers within this state would have missed out completely in terms of any compensation at all. So, as often happens with competition policy reforms, we are faced with legislation on a 'take it or leave it' basis.

The deregulation of the dairy industry has left many dairy farmers in a difficult position, as the compensation package that came with that deregulation has not turned out to be as

generous, in many cases, as it was originally purported to be. Dairy farmers in South Australia are spread throughout the state, from the Adelaide Hills to the Fleurieu Peninsula to the Lower Murray to the South-East. It is an important industry for this state, both to those regions and to the state as a whole.

Deregulation, however, has not been kind to all. As a former shadow Minister for Primary Industries, I have heard first-hand some of the problems which have faced farmers since deregulation. Farmers were not assisted by early uncertainty about how the process would occur. The deregulation deal was further complicated by the anomaly which has seen some South-East dairy farmers worse off than other farmers in South Australia because of the formula adopted to award compensation. This is a very complicated issue, which I addressed in debate on the dairy deregulation bill, and I do not intend to deal with it further today.

There is no doubt that the proposed joint committee will be limited in what it can do. Deregulation is a fact of life, and it falls under federal jurisdiction. The opposition believes, however, that there is no harm in looking at the process of deregulation in order to gauge just how farmers have been affected by the process, while recognising that our powers are limited. If there is any action that we can take at a state level to assist dairy farmers who have been particularly affected by changes, it will be worth while to examine these issues.

According to a recent ABARE report on the impact of the open market on the dairy industry, the number of registered dairy farms in South Australia fell from 714 in 1999 to 667 in 2000. I have no doubt that the number has dropped even further since those figures were calculated. This drop would, on the whole, be explained by the number of farmers who have chosen to exit the industry and have accepted the compensation package offered. It is important, however, to remember that not all farmers who left the industry voluntarily chose to do so, but were forced out through their changed financial circumstances.

In conclusion, given that the terms of reference of this select committee were to examine what has happened under deregulation, I do not think that it hurts to look at such matters. It has been a major change in a significant sector of the rural industry and, if there are lessons to be learnt, I think we should learn them. The opposition will support this motion to establish a joint select committee.

The Hon. L.H. DAVIS secured the adjournment of the debate.

ROAD TRAFFIC (TICKET-VENDING MACHINES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 March. Page 1158.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): Following an earlier incident this afternoon with a private member's bill moved by the Hon. Terry Cameron, I have only belatedly been alerted that I must take a government response to the party room. I have some misgivings about this measure in this form—again, the retrospectivity of it but also the application generally. I understand the sentiments—and, in fact, I support the sentiments, but I find it difficult supporting them in the form of this bill. I am not aware of what my party room may determine. What I propose to recommend to my party room (but heaven knows what will come out of that discussion) is a motion to the Local Government Association and the respective councils, talking about future investment policies and what we as a parliament would wish to see in terms of what is reasonable practice, rather than providing the sentiment through a bill which has retrospective application. I just lay it on the table at the moment that we—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: Rather than speak further on this matter at this time, I will seek leave to conclude my remarks later, having put on the record briefly some of the issues. I indicate that it is my intention to take the bill to the party room Tuesday week so that I am able to speak to it in the Council in a fortnight.

Leave granted; debate adjourned.

DIGNITY IN DYING BILL

Adjourned debate on second reading.

(Continued from 11 April. Page 1342.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): I very briefly indicate my support for the second reading of this bill. I think that both the Hon. Sandra Kanck and the Minister for Transport in their contributions have indicated that there is no right time to deal with the issue of voluntary euthanasia, and I concur with those remarks. Certainly I know that some members of the House of Assembly feel that this is a very difficult issue to deal with during an election year. However, while I can appreciate their sentiments, I believe that this is an important piece of legislation that has been very much overlooked by this parliament.

I recall that when the Hon. Anne Levy was a member of this place she moved a similar bill. The bill was sent to a select committee and that select committee did not finish its deliberations. I think it had only just begun its deliberations when the election was called. And so, following the election, I moved that the Hon. Anne Levy's bill be sent to a select committee. That motion was not successful and it was sent to the Social Development Committee where it was dispatched. I believe that, when one looks at the composition of that committee, it was certainly never going to be supported in any way, shape or form, apart from by the Hon. Sandra Kanck and I believe the Hon. Bob Such, who were the only two who provided a dissenting report.

The Hon. Sandra Kanck subsequently called a number of South Australian parliamentarians together whom she was aware were interested in furthering this kind of legislation, and I was happy to be one of those members. This bill is a result of her very long and hard work on the issue. I have been looking through the death with dignity act from Oregon in the United States. Although that legislation is drafted differently to this bill, it is a very interesting piece of legislation. I am not sure how many states of America have anything similar. Of course, there is the recent decision of the Upper House of the States General in the Netherlands to have legislation which I understand is called 'A Review of Procedures of Termination of Life on Request and Assisted Suicide and Amendments to the Penal Code and the Burial Cremation Act: Termination of Life on Request and Assisted Suicide Review Procedures Act'. It is obvious that there is worldwide interest in this because the legislation is available

on the internet in English and other languages. Clearly there is international interest in this piece of legislation.

On a personal level, as members would be aware, my husband, John, died three years ago from terminal cancer after a very long illness. He had had cancer for nine years and fought very bravely and with great dignity every inch of the way. Although he enjoyed very good health for many years, that was not the case towards the end. For a very highly intelligent man to have to face death in this way makes the title of the bill very apt. The Hon. Sandra Kanck has encapsulated what those of us who believe in voluntary euthanasia would like to think; that is, that we would die with dignity. Certainly my husband was allowed that by—I suppose I should not go into that publicly—certain means.

The Hon. Sandra Kanck interjecting:

The Hon. CAROLYN PICKLES: Yes, the doctor was alleviating his symptoms—thank you for that—for which I and my family will be forever grateful, as I know he was. Only yesterday I rang my sister-in-law who lives in England and who is also dying of cancer. It was very difficult for me because she is in England and I am here. She said that she was in a lot of pain. She has cancer throughout her body. She is quite a young, active woman and she has not long to live and she wishes that I was with her. Of course, I cannot be there, so I can communicate with her only by way of the telephone. I know exactly what my brother-in-law is going through as he watches the woman he loves dying by inches. Euthanasia is not legal in England, but they do have sympathetic doctors.

Many of us in this place could tell similar tales, and the Hon. Diana Laidlaw when talking on this bill and on previous pieces of legislation that have come before this place has spoken about the passing of her mother. I remember her contribution to the Hon. Anne Levy's bill, and her recollections as a young school girl coming home and finding her mother in extreme pain were very moving. We could go on and on about the fact that many of us have similar recollections. I know that I was very grateful, as were my family and my husband, for the sympathy of the medical profession and the understanding that we received. Certainly I know that very early in John's illness he signed the consent to medical treatment forms so that there was no misunderstanding about what he wanted to do at the end of his life. It is certainly something that I have done, and I have made it very clear to the members of my family.

However, that has its limitations. That sets out only what we can do in the circumstances with the constraints of that particular piece of legislation. While I think it goes some way towards dealing with the problems that we have, it does not go nearly far enough. I believe that the Hon. Sandra Kanck's bill goes a lot further and allows us as adult human beings to decide how we should pass from this life, if you like.

I have received correspondence from a number of people. I wish to highlight the letter that I received from the Archbishop of Adelaide, Leonard Faulkner, a person for whom I have the greatest respect but whose views on this issue I do not share. He urges me not to support this bill. He wrote to me only recently, but I will respond to him and perhaps sit down with him and talk about my personal experiences and those of my family, and perhaps try to get him to understand that there is great humanity in the bill before us.

I believe that in the context of his faith the Archbishop of Adelaide is a very good Christian. I remember when former Governor Dame Roma Mitchell was dying that he was very concerned that she not be in any kind of pain—and she was not. So, he has great humanity, but he does not share my views on this issue. However, I do not think that necessarily should divide us.

It is important that people be very honest about where they stand in relation to this issue. Regrettably, I do not believe that this bill will pass, that it will see the light of day. Although I am leaving this place, I hope that the Hon. Sandra Kanck and others who support this legislation will not give up. I am happy from outside the parliament to go on supporting you and doing what I can so that one day we will have in place a system that protects the citizen and the medical profession but allows us as consenting adult human beings to choose the way that we wish to die. We want to die with dignity and we do not want to suffer unnecessary pain.

It is some time since I read the Hon. Sandra Kanck's contribution, but I believe that she commented during her speech that we are more humane towards animals than human beings. I remember having a cat which clearly was in pain, so I took it to the vet and said that I did not want it to suffer. Yet, as human beings we cannot do that.

I think there has been a lot of misinformation about the process of this bill and what it seeks to do, and I think that is mischievous. Clearly, some members of this place have strong views in opposition to mine. I respect their views, but I do not agree with them. While I have breath in my body I will try to change the legislation in this state.

The Hon. Ann Levy, who previously moved a bill in this place, and former Senator John Quirke, who was a member of the House of Assembly and who also moved a bill on voluntary euthanasia, are watching the progress of this piece of legislation. However, as I indicated before, I do not believe—and I do not think I am being unrealistic—that this bill will pass. However, I think it is a brave and honest attempt. The Hon. Sandra Kanck has had an interest in this subject for many years and has been tireless in her efforts to get a bill before this parliament.

The criticisms that have been levelled at her for introducing the bill at this time may be valid in the context of an election year. However, as I said before, one wonders when it would be the right time. This is an ongoing issue; it will not go away. There are increasing numbers of people who wish to support legislation such as this. These brave souls are not members of parliament. Perhaps we need to try to get more people into this place who share my views and those of the Hon. Sandra Kanck and others, people who will use this issue as a platform which, perhaps, will get them into parliament in the same way as the No Pokies Independent member entered this place. I urge members to think about that, because that is something many people would support.

We are an ageing population in South Australia: we are an ageing population in the world today; and, sooner or later, this issue will come before us when we can no longer deny its validity or deny that we have to move forward. I do not really know of anyone amongst my friends who opposes such a measure, and they cannot for the life of them see why we cannot do something sensible in this area.

I recall that my former colleague the Hon. Frank Blevins was the first person to introduce the legislation that dealt with this issue in an indirect form. I remember when I was leaving to go overseas, long before I came into parliament: my mother, thinking that she might die while I was gone, said to me, 'You make sure you get me that Frank Blevins bill so that I can sign that consent form before you go', which I did. Sadly, by the time I came back from overseas, my mother was very sick and was never quite the same again.

What we have before us is a very brave attempt to deal with a very complex social issue. But it should not really be quite so complex. We have a piece of legislation that is saying quite simply that, when we are very, very sick and we are suffering, we should be able to say that enough is enough. The night that my husband died, he rang me from the hospital—I had gone home in exhaustion to try to have half an hour's sleep—and they are exactly the words he said to me: 'I've had enough.'

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

WATER RESOURCES ACT

Order of the Day, Private Business, No. 26: Hon A.J. Redford to move:

That the regulations under the Water Resources Act 1997 concerning fees, made on 25 May 2000 and laid on the table of this Council on 30 May 2000, be disallowed.

The Hon. CAROLINE SCHAEFER: On behalf of my colleague the Hon. Angus Redford, I move:

That this Order of the Day be discharged.

Motion carried.

STATUTES AMENDMENT (DUST-RELATED CONDITIONS) BILL

Adjourned debate on second reading.

(Continued from 11 April. Page 1343.)

The Hon. K.T. GRIFFIN (Attorney-General): Recently, there has been a good deal of publicity in the media about the plight of people suffering from mesothelioma, a horrible disease caused by exposure to asbestos that often results in death within a few months of diagnosis. The exposure to the asbestos has usually occurred many years before the person becomes ill.

Asbestos is the substance that has received the greatest publicity in recent times but there are, of course, other injurious substances and processes that can cause disease and, like asbestos-related diseases, the symptoms are sometimes not evident for a long time. One example is exposure to radiation. In recent years, standards of occupational health and safety have improved. The Occupational Health, Safety and Welfare Act 1996 and the strict regulations about the measures that must be taken to prevent exposure of workers to injurious substances no doubt have had an improving effect on safety in the workplace. It is hoped that in the future there will not be cases of workers becoming ill because of exposure to injurious dust. Prevention should be the first priority.

The Hon. Nick Xenophon's bill is confined to a legal issue relating to compensation when a person who has suffered a dust-related condition dies before his or her claim for damages or workers compensation has been finalised. Unfortunately, some misleading and inaccurate statements have been made in the media. Some people are saying that, if a person dies before a claim for compensation is finalised, the estate or the family get nothing. Even the Hon. Ron Roberts said in this place on 29 November 2000:

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.

That statement is simply not correct. Apparently they do not know that the law was changed 60 years ago. The old common law rule that a person's right to institute or maintain legal proceedings died with that person was abolished by the Survival of Causes of Action Act 1940. Since 1940, proceedings for damages for personal injuries have been commenced and continued for the benefit of the estate after the death of a claimant. Likewise, proceedings have been continued against the estates of deceased defendants since 1940. There are, however, some limits to the type of damages that can be recovered by or against an estate.

The effect of the Survival of Causes of Action Act is that damages for economic loss suffered by the deceased, and legal costs, can be recovered for the benefit of the estate. Damages for economic loss and legal costs can be ordered to be paid out of the estate of a deceased defendant. Damages for the deceased's non-economic loss do not survive the plaintiff's death for the benefit of his or her estate. These are damages for the pain and suffering, loss of bodily or mental function and loss of life expectancy suffered by the plaintiff.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: The Xenophon bill does not address that issue.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: Under workers compensation legislation, if there are dependants they may well have rights to claim, and I will deal with that in a moment.

The Hon. T. Crothers interjecting:

The PRESIDENT: Order! The chair has been lenient long enough.

The Hon. K.T. GRIFFIN: Under the Workers' Rehabilitation and Compensation Act 1986 and under the Workers Compensation Act 1971, the death of a worker whose claim has not been finalised triggers a liability to make other payments to the worker's spouse and dependants.

The Hon. Nick Xenophon's bill would change the law so that damages and/or workers' compensation for a claimant's pain and suffering, loss of bodily and mental function, and curtailment of expectation of life would be payable after the death of the claimant to his or her estate in those cases in which the claimant suffered a dust-related condition. The bill would do this by amending the Survival of Causes of Action Act 1940 and the Workers' Compensation Act 1986.

In order to make an informed and rational decision about this bill, it is necessary to understand what rights people who suffer from dust-related diseases, their dependants and the beneficiaries of their estates have now. First, I will summarise the rights of workers and their dependants under workers' compensation legislation. The law gives workers who have been exposed to asbestos or other injurious dusts a statutory right to workers' compensation. They do not have to prove that the employer was negligent. If the disease was caused by the worker's employment, then the worker—and after his or her death the worker's dependants—are entitled to benefits.

Under the Workers' Rehabilitation and Compensation Act 1986, the benefits are quite generous. If a worker was exposed to dust after 30 September 1987 or both before and after that date, the benefits are paid in accordance with this act. If the worker was exposed to the dust only before 30 September 1987, then benefits are paid in accordance with the Workers' Compensation Act 1971.

The Hon. Nick Xenophon interjecting:

The Hon. K.T. GRIFFIN: But the spouse and dependants then have a right.

The Hon. Nick Xenophon interjecting:

The Hon. K.T. GRIFFIN: And in relation to the loss generally. I have been advised that most workers who are now suffering asbestos-related diseases come under this act. Statutory entitlements to compensation under the 1971 act are lower than under the 1987 act, but these workers have a right to bring a claim for common law damages against the employer if they can prove that the employer was negligent. In addition, any worker, whether covered by the 1971 act or the 1986 act, can sue any other party whom he or she can prove was negligent.

There have been many cases in which a person who was exposed to asbestos at work has brought a successful claim for damages against the supplier of the asbestos. This is why so many cases about which honourable members have heard involve James Hardie and Co. or Wallaby Grip Limited. If honourable members would like further information about the amount of the statutory entitlements to workers' compensation, I can certainly provide that. Now I turn to a summary of the rights of those who have common law claims.

The Hon. R.K. Sneath interjecting:

The Hon. K.T. GRIFFIN: I will take the question on notice and I will make sure that there is a response. I do not have this information at my fingertips.

The PRESIDENT: Order! The honourable member will have an opportunity to ask questions.

The Hon. K.T. GRIFFIN: I am quite happy to get the information. I have a schedule, but I must confess I do not have it at my fingertips. Workers whose claims come under the 1971 act and people whose claims do not arise out of exposure to dust work can sue for common law damages if they can prove negligence by an identified person. For example, there has been a recent case in which a woman who washed her asbestos-worker husband's clothes succeeded in obtaining common law damages.

Another example is a woman who suffered an asbestos-related disease as a result of renovating a bathroom in which asbestos products were used. The amount of damages payable by the defendant or defendants is assessed by the court in accordance with the circumstances of the case. Damages are awarded for economic loss. Economic loss includes not only expenses incurred and loss of income but also frequently an amount for services and care provided gratuitously by relatives and friends.

The amount allowed for this is also substantial. These damages are paid to the claimant and, if the claimant dies before payment, they are paid to the estate. The law assumes that the claimant will meet his or her moral obligation of ensuring that those whose gratuitous services are recognised in this way receive the benefit of the amount awarded. Usually, they are family members. A claimant can enforce the judgment in full against any one or more of the defendants found liable.

In addition to these rights, the Wrongs Act 1936 gives the executors or administrators of the estate and certain relatives a separate independent right to bring an action against a person whose wrongful act, omission or neglect has caused the death. They can claim losses to the estate such as medical care and general expenses, and they can claim damages for loss of the support they could have expected to receive from the deceased, had he or she lived, and for solatium.

There is one exception to this, namely, that the spouse and dependants of a worker who are entitled to benefits under the Workers' Rehabilitation and Compensation Act 1986 cannot sue the worker's employer under the Wrongs Act. When the workers' compensation law was changed in 1986, more generous entitlements were given to the spouse and dependants, and correspondingly more onus or liabilities were imposed on employers, in substitution for the employees' and others' rights to sue the employer for common law damages if they could prove the employer was negligent. As I said earlier, I am advised that most asbestos related claims come under the earlier act.

What happens if the person who suffers the disease dies before a claim for workers' compensation or damages is finalised? In summary, as I have just outlined, the death triggers the independent right of dependants and executors of the estate to sue if negligence or other tortious conduct can be proved, except for the spouse and dependants of workers who are entitled to benefits under the 1986 act. Secondly, if the deceased person died as a result of a disease caused by his or her work, then the spouse and dependants are automatically entitled to workers' compensation. If the deceased worker had a right to pursue a common law claim, then common law damages for economic loss, including for gratuitous services provided by relatives and friends, are payable to the estate of the deceased.

However, the death of the claimant extinguishes the liability of defendants in common law claims to pay damages for non-economic loss, that is, damages for the pain and suffering, loss of bodily or mental function and loss of life expectancy suffered by the claimant. The death relieves the employer or WorkCover from liability to pay the lump sum for non-economic loss under the Workers' Rehabilitation and Compensation Act 1986. As to compensation for the worker's non-economic loss payable after the worker's death under the Workers' Compensation Act 1971, the resolution is not so clear.

The Hon. Nick Xenophon has highlighted the fact that it is possible for unscrupulous defendants and insurers to delay claims in the hope that the claimant will die before his or her claim is finalised, and thus relieve them of liability to pay damages or compensation for the claimant's pain and suffering. However, this is not confined to claims for dust related conditions. There is an obvious incentive for defendants and insurers to delay claims by any claimants who have a short life expectancy, and any such practice is not something which I, or the government, support.

Although I have great sympathy for those who suffer dust related conditions and although I agree that the law should be improved, I believe that the bill before the Council does not provide an appropriate legislative response. The government intends to introduce an alternative bill. Before I talk about the government proposal, I want to explain why the bill before the Council is not an appropriate response to this problem. The bill is conceptually unsound, because it ignores the whole rationale and purposes of damages for non-economic loss. Damages for non-economic loss are intended to provide some solace to the claimant for his or her pain and suffering, loss of bodily function and loss of expectation of life. As the Hon. Shirley Jeffries said when introducing the Survival of Causes of Action Act in 1940:

> It does not seem logical that living persons, entitled to the estate of the deceased, should derive large sums of money because of the bodily and mental suffering of the dead man.

As is stated in a leading text, Luntz' assessment of Damages for Personal Injury and Death is as follows:

> No money can compensate a person who is dead for the pain and suffering previously undergone. Damages awarded under the heads of non-pecuniary loss merely constitute a windfall for the beneficiaries of the estate. By contrast, damages for economic loss are, by way

of compensation for, or reimbursement of, financial losses and expenses. These losses and expenses affect and are liabilities of the estate and the law allows for recovery of them by the estate.

One must look not only at the position of the claimant. The co-relative of any entitlement to receive damages is a liability to pay. It should not be assumed that every defendant is wealthy and powerful, and at a great advantage over the claimant—

The Hon. Nick Xenophon interjecting:

The Hon. K.T. GRIFFIN: But the right is a right against the employer—

The Hon. Nick Xenophon interjecting:

The Hon. K.T. GRIFFIN: No, it is not the reality all the time. What happens if you have an insurer who has gone broke?

The Hon. Nick Xenophon interjecting:

The Hon. K.T. GRIFFIN: And if you go back to 1971, that is 30 years. As I said, it should not be assumed that every defendant is wealthy and powerful and at a great advantage over the claimant. For example, the defendant may be a self-employed, uninsured tradesperson, farmer or small builder. It is difficult to see any social utility or justice in making a defendant pay compensatory damages to the estate for the claimant's non-economic loss. Why should whoever is entitled to claim from the claimant's estate, be it a cats' home, distant relatives who are not dependent on the plaintiff or close relatives to whom the plaintiff leaves his or her estate, benefit financially from the plaintiff's personal suffering at the expense of the defendant?

The bill before us would be discriminatory. The Hon. Nick Xenophon has selected one much publicised group of people, namely, those who suffer from dust-related conditions, particularly those exposed—

The Hon. Nick Xenophon interjecting:

The Hon. K.T. GRIFFIN: That is a projection which some statistician has made.

The Hon. Nick Xenophon: Actuaries.

The Hon. K.T. GRIFFIN: Actuaries; well, actuaries are not right all the time, are they?

Members interjecting:

The Hon. K.T. GRIFFIN: I have every sympathy with the victims. Some will try to twist this and say that I am unsympathetic towards the victims. That is nonsense, and I want to make it clear that it is nonsense. This is a law which will affect a whole range of different people with different interests, some advantaged and some disadvantaged. It will not affect others who are perhaps equally deserving, and what I am trying to do is put a logical position that people can then think about. If you do not want to listen to logic, then so be it, but at least give other people a chance to listen to it.

As I was saying, the Hon. Nick Xenophon has selected one much-publicised group of people, namely, those who suffer from dust-related conditions, particularly those exposed to asbestos. He proposes to treat them and those who are liable to compensate them differently from others, without any good reason for doing so.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: I am not looking to protect the companies. I am looking to provide a logical response so that you can think about it. In fact, those who suffer from asbestos and certain other dust-related diseases are now likely to have less difficulty in finalising their cases quickly than claimants who suffer from other diseases that have a long latency. If members would like more information about that I would be happy to provide it.

The Hon. Nick Xenophon's bill would place claimants who suffer a specific dust-related disease in a better position than other claimants who have a short life expectancy, although they are just as likely to be subjected to delay, and the frustration and distress caused by it will be the same. It would result in creditors and beneficiaries of the estate being better off if the claimant died from a dust-related condition rather than some other disease or injury suffered at work or caused by the tortious conduct of another person. It would put defendants in a worse position if the claimant suffered a dust-related condition rather than some other type of disease or injury. It would treat defendants who conduct their side of the proceedings expeditiously in the same manner as those who deliberately and unconscionably delay the plaintiff. It would take no account of the fact that the slowness of the proceedings may be due to the claimant or his or her lawyers.

The law has been unchanged with regard to the survival of rights to damages for 60 years. Employers, product suppliers, landlords and others have made their insurance arrangements on the basis of that law. Changing the law in the manner proposed by this bill would have the effect of retrospectively altering their liabilities. This bill may well lead to demands to change the law for people who suffer other specified types of diseases that happen to be attracting public sympathy. It may lead to a demand that damages for non-economic loss be payable to the estate in all cases, thus changing the law as it has stood for over 60 years—and that, I suggest, could have negative impacts on the workers' compensation scheme and other insurance schemes such as the compulsory motor vehicle insurance scheme.

The amendment to the workers' compensation legislation is inconsistent with the scheme of the legislation, which is to provide financial support for the dependents of the deceased worker. The bill would provide for payment to the estate. Money paid to the estate would become available for the costs of administering the estate, paying death taxes (if any should be imposed), creditors and to whomever the worker leaves his or her estate. That is a very different and less certain result than directly supporting workers' dependents.

In any event, the proposed amendment to section 43 of the Workers Rehabilitation and Compensation Act 1996 would not result in any additional payment for dependents because the lump sum payment for non-economic loss made under that section must be deducted from death benefits payable to the dependents under section 44. I am advised that the proposed amendment to section 43 of the 1986 act may also have the potential to delay payment to the spouse and to the dependents of the deceased worker under section 44 until after finalisation of any claim for non-economic loss under section 43. This follows from the fact that payments made under section 43 are deducted from death benefits payable under section 44.

As the amendment would allow the executors of the estate to initiate a claim for non-economic loss, even when the worker did not lodge a claim, and there is no time limit within which the claim must be made, the delay could be substantial. Also, it is not clear why the proposed amendments to the Survival of Causes of Action Act would operate only if the plaintiff has commenced proceedings prior to death but the proposed amendment to the workers' compensation legislation would operate regardless of whether notice of claim was given by the worker.

It is difficult to estimate the cost to the community of this bill in terms of increased insurance premiums and workers' compensation levies and increased taxes or reduction in

services because of the state's potential liability. Although the changes proposed by the bill would reduce pressure on claimants to finalise their cases before they die, it would not eliminate the need for what the media call death bed hearings. In most cases, the evidence of the claimant will be needed, in any event.

Finally, I urge honourable members not to be influenced in deciding whether to support this bill by what the Hon. Nick Xenophon has said about the conduct of certain companies involved in the asbestos industry. It appears from his speech on 11 October 2000 that he wants to see James Hardie punished. I do not intend to go into the rights or wrongs of the conduct of James Hardie. Punishment of James Hardie is not a legitimate object of this proposed legislation. Even if it were, this bill would affect many others besides James Hardie and Wallaby Grip, the main suppliers of asbestos. It would affect all manner of enterprises, large and small, in which dust is created, and the owners of buildings containing asbestos. It is not suggested that each and every one of them deserves to be punished.

I come now to the government's position. The government proposes to introduce a bill intended to target delays of proceedings by defendants, employers and their insurers in all cases in which the claimant has a short life expectancy. The object of the bill will be to remove the incentive to delay such claims. We are then proposing to deal with what is the core concern raised by the Hon. Mr Xenophon, but to do it in an objective and rational way.

It is proposed to do this by directing courts and tribunals to award exemplary damages against the defendant in any case, not just dust-related claims, in which the claimant dies before finalisation of the case and the court is satisfied on the balance of probabilities that the defendant delayed unreasonably or unconscionably. This would not be common law exemplary damages but a statutory form of exemplary damages. They would be based solely on the conduct of the defendant or its insurer in relation to the claim or proceedings and they would be punitive in nature.

They would reflect disapproval of the defendant's or insurer's conduct in relation to the conduct of the claim, not the defendant's conduct as an employer or tortfeasor. The amount of exemplary damages would be at the discretion of the court. Any exemplary damages awarded under the statute would survive the death of the plaintiff and be payable to the plaintiff's estate, in the case of common law claims, and to the worker's dependants or, if there are none, to the estate in workers' compensation cases.

It is proposed that the bill would provide that, despite the terms of an insurance policy, an order to pay exemplary damages may be made against the insurer. This would be necessary because, often, the insurer controls the conduct of the defence. The reform would apply in any case in which the claimant dies after the act comes into operation.

Diseases that have a long latency present some particular problems for those who wish to claim compensation or damages and also for those who are potentially liable to pay. Where a claimant has a short life expectancy, these problems can become more acute. It is very important that these cases be dealt with quickly. It is already possible for courts to take the evidence of a very sick claimant early and to preserve that evidence for use in the proceedings if the claimant should unfortunately die before the trial. The Chief Judge of the District Court has done this twice recently. The evidence can be taken anywhere that is convenient, including the claimant's home or hospital.

There are some procedures available to bring claims to trial expeditiously and to expedite trials. The effectiveness of these procedures depends to some extent upon whether claimants and their legal advisers seek diligently to take advantage of them. WorkCover has developed some administrative procedures to deal more quickly with claims by workers who have a short life expectancy. I am looking at whether there is anything else that can be done to facilitate quicker resolution of claims without compromising the ability of courts and tribunals to decide cases justly.

There is only one other area of this issue that I wish to address quickly. There has been some reference to the position in New South Wales and Victoria. I indicate that, so far as Victoria is concerned, the law relating to common law claims only was changed. The change in Victoria does not extend to workers' compensation. There are differences between the Hon. Nick Xenophon's bill and what happens in Victoria.

The New South Wales act applies to both common law and workers' compensation claims. The Victorian and New South Wales acts give the estate the damages for the deceased's pain and suffering only if the deceased died of a dust-related disease and, further, the Victorian act gives these damages to the estate if, in addition, it is proved that the dust-related disease from which the deceased died was caused by the wrongful act or omission of the defendant.

The Hon. Mr Xenophon's bill would give these damages to the estate whatever the cause of the deceased's death, whether a road accident, some other accident, homicide or some unrelated medical condition, and thus his bill has wider application in this respect than either the New South Wales or Victorian acts, and is therefore more favourable to the estates of claimants and less favourable to those who must pay than the Victorian and New South Wales acts. There are other differences between his bill and what is proposed in Victoria and New South Wales, making this certainly a much more favourable piece of legislation.

The government is very sympathetic to the claims and the interests of those who suffer dust-related diseases and their spouses, partners and dependants. We do not believe, though, that the Hon. Nick Xenophon's bill is an appropriate response to that. The response I have outlined that the government proposes is an alternative which applies more broadly and is more likely to achieve the objective sought by the Hon. Mr Xenophon, and that is to punish delay, and to punish it directly rather than indirectly by extending and amending the provisions of the Survival of Causes of Action Act.

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

GRAFFITI CONTROL BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to introduce measures for the minimisation of graffiti; to punish people responsible for graffiti; to provide for the removal of graffiti; to make consequential amendments to the Summary Offences Act 1953; and for other purposes. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

This is a Bill for an Act to take various measures to assist in the prevention of graffiti vandalism in the community.

Graffiti vandalism makes people angry and is annoying. It has cost implications, both financial and social.

This Bill builds on a number of successful initiatives, implemented mostly at the Local Government level and promoted and supported by the State Government, to prevent graffiti vandalism. The Attorney-General's Department Crime Prevention Unit supports a number of strategies through the Local Crime Prevention Committee Program.

The Attorney-General's Department has recently provided $50 000 to local councils and $15 000 to Neighbourhood Watch groups across South Australia to help them to implement innovative anti-graffiti strategies. From this money grants have been awarded to 19 local councils, on a dollar for dollar basis, targeting successful methods of reducing or preventing graffiti, and to 35 Neighbourhood Watch groups.

Significant funding has also been provided to KESAB to implement strategies at a State-wide level to assist local graffiti prevention work, including working with the private sector and schools around graffiti prevention and other measures such as the Code of Conduct relating to the sale of spray paint cans. With this funding KESAB has also established a website with graffiti information, distributed a newsletter titled 'Graffiti Gone' and undertaken various other proactive activities.

Funding of $66 000 has also been allocated by the Attorney-General's Department Crime Prevention Unit for a Crime Prevention Curriculum Development Project to further promote crime prevention curriculum within schools on the basis that development of responsibility within young students has the best prospect, in the longer term, of ensuring the prevention of graffiti.

Strategies adopted by councils under the Local Crime Prevention Committee Program have included establishing improved mechanisms for reporting and the rapid removal of graffiti, working with schools through theatre groups and the police 'law and community' program, investigation of 'free wall' space for mural work, working with council youth workers to devise 'inclusive' anti-graffiti strategies and drop-in programs for identified perpetrator groups. These strategies are achieving demonstrated results in terms of graffiti reduction.

However, while positive results have been achieved with many of these initiatives, legislative backing for some initiatives is now desirable to give added impetus to the graffiti prevention programs around the State.

Restrictions on sales of spray paint

In March 1996, the South Australian Government established a voluntary Code of Conduct for Graffiti Prevention that specifically targets retailers. The Code includes provisions for the display and sale of products used for the purpose of graffiti (including spray paint cans).

More than 5 years has now elapsed since the introduction of the voluntary Code. The voluntary Code has been supported by the retail industry generally, however some retailers, particularly small metropolitan and rural retailers, have not complied with the Code. As spray cans, often stolen, are the implements mainly used for graffiti purposes, it is now appropriate to impose a compulsory framework for the storage and sale of spray paint cans.

The Bill prohibits the sale of spray paint cans to minors. Alternative proposals involving identification checks and register systems are open to abuse and would involve significant compliance and enforcement costs for questionable effect. They are not, therefore, supported by the Government.

As a consequence of this legislation, minors who require spray paint for legitimate purposes will need to ask an adult to purchase the goods on their behalf. This provision may cause inconvenience for some people in the community, however this is an unavoidable consequence of the legislation.

As identified in the voluntary Code, there is a need to restrict the storage and display of spray paint cans by retailers to prevent theft of the cans. The effectiveness of a ban on spray can sales will be reduced where the cans can simply be stolen. Retailers will be required to ensure that spray paint cans are kept in a part of the shop to which the public are not permitted access or in a locked cabinet such that they are inaccessible to the public without the assistance of shop staff.

Given that the major responsibility for graffiti management, including monitoring compliance with the voluntary Code, has to date been borne by Local Government, it is appropriate that councils should continue this role by having a part in enforcing the sale of spray paint provisions. The Bill provides for the appointment of authorised officers by councils and conferral of powers on these authorised officers, thereby increasing the powers of councils with respect to enforcing the restrictions on the sale of spray paint.

Consequential amendment of the Summary Offences Act

This separate Bill has been introduced to deal comprehensively with graffiti. Accordingly, the Bill amends the *Summary Offences Act 1953* to remove the provisions relating to the offences of marking graffiti and carrying a graffiti implement from that Act and incorporate them into this Bill. The provisions incorporated into this Bill are in similar terms as those contained in the *Summary Offences Act*, apart from the provision relating to orders for payment of compensation by persons convicted of marking graffiti. The Bill provides that the court, on finding a person guilty of the offence of marking graffiti, *must* order the convicted person to pay such compensation as the court thinks fit.

This amendment does not alter the provisions of section 85 of the *Criminal Law Consolidation Act 1935*, which deal with very serious property damage offences.

Power to remove graffiti from private property

During the course of preparing a report on Local Government responses to graffiti vandalism, the Crime Prevention Unit within the Attorney-General's Department identified various concerns held by councils regarding the removal of graffiti from private property. Rapid removal of graffiti is an important and effective strategy in graffiti prevention and reduction. It counteracts one aim of the offender which is linked to peer recognition, namely to position graffiti in a prominent place where it will be seen by many. Rapid response also dispels the sense of disorder which can evolve in communities where graffiti remains. For these reasons it is important that residents and businesses act responsibly to promptly remove graffiti from their property, or at least to report the presence of graffiti in their area.

Many councils, some with the assistance of local volunteers, are very proactive in terms of rapidly removing graffiti. For various reasons, many residents are unwilling or unable to remove graffiti from their properties and these councils, recognising the importance of rapid removal, are prepared to take the action required to remove the graffiti. However, some councils remain hesitant to remove graffiti from private property because of difficulties in gaining consent and concerns about potential liability.

Chapter 12 Part 2 of the *Local Government Act 1999* allows councils to order property owners to take specific action to clean up unsightly conditions on land. If the owner fails to comply with the order, the owner is guilty of an offence. The provisions then allow councils to undertake the work specified and recover the cost from the property owner. However, there are concerns that using these provisions of the *Local Government Act* in relation to graffiti would tend to criminalise the victims of graffiti.

Recognising the desirability of councils obtaining consent and entering into agreements with property owners to remove graffiti from their property, some action should nevertheless be taken to address the circumstances where councils wish to remove graffiti from private property but are unable to gain consent.

The Bill provides that if a council decides that it should take action to remove graffiti that is on private property and visible from a public place, and the council has been unable to obtain consent, the council may take action under the provision to remove graffiti.

The Bill provides that the council must give at least 10 days notice in writing of the proposed action and give the owner or occupier of the property an opportunity to object to the proposed action. This will ensure that a council does not inadvertently remove graffiti which may have been commissioned by the owner. If there is no objection, a council employee or person authorised by the council may enter onto the property and take action reasonably necessary to remove or obliterate the graffiti. When removing the graffiti, a council must take reasonable steps to consult with the owner or occupier in relation to the manner in which the action is to be taken and ensure that the work is carried out with reasonable care and to a reasonable standard.

To protect councils and their agents, for example, where property damage occurs in the course of removing graffiti from private property, councils and their agents are to be exempted from civil liability in relation to action taken pursuant to the Bill. This is consistent with the corresponding provision in the *Local Government Act*. Without this protection, many councils are unwilling to remove graffiti from private property in the absence of consent and waiver by the owner.

Currently, some councils enter into agreements with property owners, particularly businesses, to remove graffiti from their premises for a fee. This Bill is not intended to affect the arrangements already in place whereby councils assist ratepayers in carrying out their responsibilities to remove graffiti from their properties. Further, the Bill is not intended to impose a duty on councils to remove graffiti from private property. The Bill makes this clear. Property owners should not expect councils to absolve them of their responsibilities to keep their properties clean of graffiti and to help to prevent graffiti. The Bill is intended to provide legislative support to councils where they resolve to remove graffiti from private property.

Consequential amendment of the Summary Offences Act

The Bill amends the *Summary Offences Act 1953* to remove the offences of marking graffiti and possession of a graffiti implement, which have been incorporated into the Bill.

I commend this bill to the house.

Explanation of clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause defines certain terms used in the measure.

PART 2

SALE OF SPRAY PAINT

Clause 4: Cans of spray paint to be secured

This clause provides that a retailer of cans of spray paint must ensure that cans stored in a part of the premises to which members of the public have access are kept in a securely locked cabinet or in a manner prescribed by regulation. Members of the public must not be able to gain access to the cans without the assistance of the retailer or an agent or employee of the retailer.

This offence is punishable by a maximum fine of $1 250 or an expiation fee of $160.

Clause 5: Sale of cans of spray paint to minors

This clause makes it an offence, punishable by a maximum fine of $1 250, to sell a can of spray paint to a person under 18.

It is, however, a defence to a charge of this offence to prove that the minor was required to produce evidence of age and made a false statement, or produced false evidence, in response to that requirement so that the defendant reasonably assumed that the minor was of or over the age of 18 years.

Clause 6: Notice to be displayed

This clause requires people selling spray paint from premises to display a notice advising people of the offence under clause 5 and that they may be required to show evidence of age.

Failure to do so can result in a maximum penalty of $750 or an expiation fee of $105.

Clause 7: Appointment and powers of authorised persons

This clause allows councils to appoint authorised persons under section 260 of the *Local Government Act 1999* for the purpose of enforcing this Part and specifies the powers of an authorised person. Section 260 of the *Local Government Act 1999* requires such people to be issued with identity cards and deals with the liability of councils for the acts of authorised persons.

PART 3

GRAFFITI OFFENCES

Clause 8: Application of Part

This clause provides that this Part only applies to unlawfully marked graffiti.

Clause 9: Marking graffiti

This clause provides that a person who marks graffiti is guilty of an offence punishable by a maximum penalty of $2 500 or imprisonment for 6 months. In addition, a court finding a person guilty of this offence must order the person to pay compensation in respect of the damage caused.

Clause 10: Carrying graffiti implement

Under this clause it is an offence to carry a graffiti implement with the intention of using it to mark graffiti or to carry a graffiti implement of a prescribed class (which are defined in subclause (2)) without lawful excuse in a public place or a place on which the person is trespassing or has entered without invitation. The offence is punishable by a maximum penalty of $2 500 or imprisonment for 6 months.

PART 4

COUNCIL POWERS IN RELATION TO GRAFFITI

Clause 11: Council may remove or obliterate graffiti

Under this clause a council may enter private property and remove or obliterate graffiti on the property that is visible from a public place if—

- the council have sought, but been unable to obtain, the consent of the owner or occupier of the property; and
- a notice has been served on the owner or occupier of the property at least ten days prior to the action being taken; and
- the owner or occupier has not, within that time, objected to the action being taken.

The notice must give particulars of the action proposed to be taken by the council, specify the day on which it is proposed to take the action and advise the owner or occupier that he or she may object and that, in such a case, the council will not proceed with the action.

In removing or obliterating graffiti under this clause, a council must—

- take reasonable steps to consult with the owner or occupier of the property in relation to the manner in which the action is to be taken; and
- ensure, as far as is practicable, that the work is carried out expeditiously and in such a way as to avoid unnecessary inconvenience or disruption to the owner or occupier of the property and with reasonable care and to a reasonable standard.

No civil liability attaches to a council, an employee of a council, or a person acting under the authority of a council, for anything done by the council, employee, or person under this clause. The clause specifies that it does not impose a duty on a council to remove or obliterate graffiti and does not derogate from any power of a council under the *Local Government Act 1999* or a council's power to enter into agreements for the removal or obliteration of graffiti for a fee.

PART 5

MISCELLANEOUS

Clause 12: Regulations

This clause provides a power to make regulations for the measure.

Clause 13: Consequential amendments to Summary Offences Act 1953

This clause provides for the amendments contained in the Schedule.

SCHEDULE

Consequential Amendments to Summary Offences Act 1953

The Schedule makes consequential amendments to the *Summary Offences Act 1953*, by removing the offences in section 48 of that Act that will now be dealt with under Part 3 of this measure.

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

ADJOURNMENT

At 6.10 p.m. the Council adjourned until Thursday 3 May at 2.15 p.m.