LEGISLATIVE COUNCIL

Wednesday 28 May 1997

The PRESIDENT (Hon. Peter Dunn) took the Chair at 2.15 p.m. and read prayers.

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Alice Springs to Darwin Railway,
Criminal Law Consolidation (Self Defence) Amendment,
Environment Protection (Miscellaneous) Amendment,
Gas,
Goods Securities (Motor Vehicles) Amendment,
Land Acquisition (Right of Review) Amendment,
Legal Practitioners (Membership of Board and Tribunal) Amendment,
Livestock,
Local Government (City of Adelaide Elections) Amendment,
Netherby Kindergarten (Variation of Waite Trust),
Police Superannuation (Miscellaneous) Amendment,
Public Finance and Audit (Miscellaneous) Amendment,
Racing (Interstate Totalizator) Amendment,
RSL Memorial Hall Trust,
Stamp Duties (Miscellaneous) Amendment,
State Records,
Statutes Amendment (Superannuation),
St John (Discharge of Trusts),
Superannuation (Employee Mobility) Amendment,
Supply,
Tobacco Products Regulation,
Water Resources.

NATIVE TITLE

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement.

Leave granted.

The Hon. K.T. GRIFFIN: The High Court's decision in the Wik case in 1996 has been the source of a great deal of debate in relation to native title and, more recently, the Prime Minister's 10 point plan. This has centred largely on the issue of extinguishment of native title arising from the level of uncertainty which existed pre-Wik and the greater level of uncertainty since that decision.

The State Government believed, as did the previous Federal Labor Government, that native title on pastoral leases was extinguished. The State Government was of the view that the rights conferred by section 47 of the Pastoral Land Management Act, which had been recognised by one form or another for at least 100 years, were statutory rights which had replaced native title rights. At the least, if native title was not extinguished, these statutory rights were the limit of the native title rights. Whatever the case, there has been a recognition of those rights by pastoralists and, generally, few difficulties have arisen in the day-to-day exercise of those rights.

In the context of native title claims, over the past 18 months we have been discussing with native title claimants, pastoralists and the National Native Title Tribunal the clarification of those rights, and the Crown Solicitor prepared a draft agreement as a basis for those discussions. The State has not sought to withdraw from a recognition of those rights for Aboriginal people to pass over land, conduct ceremonies, camp, etc. We have kept open our lines of communication with all interest groups and have been endeavouring to find a solution to the impasse.

Following the Wik decision the Prime Minister developed a 10 point plan to deal with the resultant uncertainty. I seek leave to table details of that 10 point plan.

Leave granted.

The Hon. K.T. GRIFFIN: The 10 point plan is certainly an advance on the situation immediately following Wik. The 10 point plan will provide a framework for the resolution of native title claims in a non-discriminatory manner. That is to be welcomed. The Premier has indicated the Government's support for that plan as the best that is achievable. However, there are a number of concerns that will not be addressed adequately or at all by the 10 point plan. The fundamental problems with the 10 point plan, from the State's perspective, is that it does not avoid the current necessity for native title claims to be made and pursued through the courts, and it does not provide any guidance on the amount of any compensation that may be payable where native title is affected. This means that unproductive legal and other costs will continue to be incurred, whilst uncertainty will remain. For example, the practical issues surrounding coexistence will remain unresolved.

Issues about pastoralists locking gates or excluding native titleholders from particular areas and native titleholders' use of tracks, grazing of stock or erection of permanent dwellings, will still have to be resolved by the courts on a case by case basis. Similarly, the questions whether or not native title exists on a particular pastoral lease, whether mining activities on pastoral lands affect that native title or not, and the amount of any compensation that may be payable will still have to be resolved by the courts on a case by case basis. That will be time consuming and will involve millions of dollars in legal costs and other resources for all parties. This State wishes to explore with interested parties whether these issues can be resolved by agreement. The State Government awaits with keen interest the release of the Federal Government Bill. The Government is anxious to ensure, as much as it is possible to do so, that the law is certain and that uncertainties are resolved fairly in a manner which keeps the costs to a minimum.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON: I bring up the seventeenth report of the committee.

JOINT COMMITTEE ON SOUTH AUSTRALIA'S LIVING RESOURCES

The Hon. CAROLINE SCHAEFER: I bring up the final report of the committee, together with minutes of proceedings and minutes of evidence.

BOLIVAR SEWAGE PLANT

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of a ministerial statement made in another place today by the Minister for Infrastructure on the subject of odour problems across metropolitan areas.

Leave granted.

QUESTION TIME

GOODWOOD ORPHANAGE

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question on the subject of the Goodwood Orphanage.

Leave granted.

The Hon. CAROLYN PICKLES: On 19 March the Minister for Education gave an answer that *Yes Minister* would have been proud of, when he told the Council:

> In my informal debriefing with the member in the early hours of the morning we discussed—

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: I am quoting what he said in here.

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: I will repeat the quote for the purposes of *Hansard*:

> In my informal debriefing with the member in the early hours of the morning we discussed a number of issues, but we did not get into the detail of the particular options and we will obviously need to have more formal discussion over the coming days and weeks in terms of what the proposition might be and we will then make a considered judgment in the best interests of teachers and students, more importantly throughout South Australia.

The Minister was of course referring to a late night meeting between himself and the member for Unley when they were discussing selling the Goodwood Orphanage building to get the Minister out of his unpopular deal to sell the orphanage open space to the House of Tabor, and to get the member for Unley off the political hook. My question to the Minister is: will he rule out a simple 'Yes' or 'No'—

The Hon. L.H. Davis: You really have a global view for South Australia, don't you?

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The honourable member is entitled to a clear run while explaining her question.

The Hon. CAROLYN PICKLES: Will the Minister rule out with a simple 'Yes' or 'No'—which is probably beyond him—the sale of the Goodwood Orphanage Teacher Training Centre to the House of Tabor?

The Hon. R.I. LUCAS: If I understand correctly the Leader's question, if she wants me to rule out the option of any consideration by the Government to sell the facilities of the Goodwood Orphanage to the House of Tabor, quite simply I will not do that. As I have indicated publicly on a number of occasions—so this should come as no surprise to anyone except perhaps the Leader of the Opposition—the Government is considering a number of options, at least one of which involves the sale of the facilities of the Goodwood Orphanage to the House of Tabor.

FIRE BLIGHT

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about recent reports of fire blight in South Australia.

Leave granted.

The Hon. R.R. ROBERTS: Members of the Council would be aware of the discussions over the past couple of years about the subject of fire blight, particularly in connection with the proposal to import New Zealand apples to Australia, a proposal which was being resisted by apple and pear growers in South Australia and Australia. A number of questions were asked in this Chamber. I remember clearly a question asked by my colleague the Hon. Trevor Crothers regarding the dangers of fire blight infestations in South Australia from imported apples.

An honourable member: They all laughed.

The Hon. R.R. ROBERTS: Yes, they did laugh. They ridiculed my colleague the Hon. Trevor Crothers, who was very perceptive in his concerns. The Council would be aware that a fire blight scare began some weeks ago in Australia after a New Zealand scientist took plant samples from the Botanic Gardens in Melbourne back to New Zealand. Tests were completed, and it was reported that some of those samples contained the fire blight bacteria.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Again, two weeks ago it was reported in Adelaide—

Members interjecting:

The PRESIDENT: Order! There is too much background noise.

The Hon. R.R. ROBERTS: They are not actually interjecting, Mr President—

The PRESIDENT: It is equally on your side, too.

The Hon. R.R. ROBERTS: Two weeks ago, it was reported in Adelaide that the New Zealand Ministry of Agriculture's Chief Plants Officer, Mr Richard Ivess, had found fire blight in our Botanic Gardens. On Monday 13 May, South Australian authorities were called to the Botanic Gardens to inspect the suspected plant. Apparently, Mr Ivess took cuttings back to New Zealand to conduct tests for fire blight. The results of those tests were inconclusive.

I am advised that last week samples of the plants in question were sent to Victoria and that these tests were confirmed as negative. Further tests have been carried out using a sensitive molecular probe, and these tests have come back with a positive result. However, it has been reported that it will be another four weeks before scientists can be positive that fire blight exists in South Australia. Members would be aware of the 'clean green' status of South Australia in produce, and I am sure they will support me and the Opposition in our support for South Australian apple and pear growers.

At this stage, I would like to congratulate the Department of Primary Industries for acting quickly and efficiently in response to this serious matter. The apple and pear industry is a vital primary industry of South Australia and is worth millions of dollars in exports. This has come as a blow to the industry, and the cost could be in the vicinity of $5 million to $7 million. Given that Australia and South Australia have been fire blight free, these results come as a shock and have the potential to tarnish our image overseas where we have enjoyed the high standing of having the best apples and pears in the world.

Regarding the circumstances of the fire blight identification in Melbourne and Adelaide, I have asked myself whether somebody has been bowling apple and pear growers in South Australia underarm apples.

Members interjecting:

The Hon. R.R. ROBERTS: Members opposite, and the Hon. Mr Davis in particular, find this a jocular subject. I would have thought the Hon. Mr Davis would be better served by supporting the apple and pear growers of South Australia by eating an apple a day—a very large one at that, in one bite. My questions to the Minister are:

1. Given that the samples from the Botanic Gardens tested positive using the molecular probe, why is it that the authorities at the Botanic Gardens did not detect the bacteria themselves? Do they have the equipment for this testing?

2. Will the Minister confirm whether the actions by a New Zealand plants officer in taking these plants from our Botanic Gardens breached any South Australian statute or Federal legislation? If in fact this action did constitute a breach of our laws, what action will the Minister take?

3. Will the Minister confirm or deny whether New Zealand plant officers declared these plant samples at customs here or in new Zealand?

4. What action has been taken to put in place a contingency plan if fire blight is found in South Australia?

In conclusion, I am aware of the statement made by the Minister yesterday in another place and congratulate him also on the actions he has taken in this matter.

The Hon. K.T. GRIFFIN: As the honourable member indicated, I tabled a ministerial statement yesterday by the Minister for Primary Industries containing some information, but in relation to the matters he has raised today I will have to refer those to the Minister and bring back a reply.

WEST LAKES FISH

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Environment and Natural Resources, a question on West Lakes fish deaths.

Leave granted.

The Hon. T.G. ROBERTS: Recently all members would have read of or heard about the recent disaster in West Lakes where all of the fish stocks were lost due to either human error or neglect. I hope the Government will be investigating the matter to find out the reason or cause. The *Messenger* press today carries the headline that fish deaths are still occurring in the lake. It is not very pleasant for residents to be living with the problems associated with those deaths and with the rotting fish that are washed up on the shore. It is certainly not very pleasant for people who use the recreational facilities of the lake for fishing. That facility is important to tourism and recreation. It is certainly not nice for those people who are trying to build up the fish stocks in the region and who are trying to integrate the artificially created reserve or resort facilities that have been put in over the years in an ecologically sustainable way that allows for people to use those facilities for recreation.

The disaster appears to have been caused by a lowering of the level of the lake, and the *Portside Messenger* last week reported that:

> Algal blooms, resulting from an overflow of nutrient-rich stormwater, had wiped out West Lakes' large fish stocks. Thousands of fish died, including mullet, bream, catfish and flounder.

One of the reasons cited by Matt Deighton in the article is that the Department of Transport, which is responsible for maintenance works at West Lakes, lowered the level to allow those works to take place and then did not raise the level of the water to allow for oxygen and nutrient rich water to come in to take the place of the stormwater that had come in through those rains.

The Department of Transport said that the fish kill was caused by a number of factors, including recent high rainfall, and is not taking responsibility for it on its own. After the fish kill occurred the department subsequently raised the level of the lake. Local environmentalists are calling for the EPA to prosecute those responsible. I am not levelling my accusations at any one cause but suspect that multiple factors caused those deaths. The multiple factors could have been avoided as they all appear to be part of a process which could have been avoided. Had the environmental measures been taken to protect the levels of water and the exclusion of the nutrient-rich algal blooms, those fish may have survived. My questions are as follows:

1. Will the Government be carrying out a detailed investigation into the causes of the environmental disaster which occurred recently, that is, on 10 and 11 May, and which appears to still be occurring?

2. Is the Government contemplating prosecutions to take place, as is the call by environmentalists in the region?

3. Will the Government guarantee that the circumstances for the cause of that disaster not occur again, because it is not the first time it has happened?

The Hon. K.T. GRIFFIN: I will have the matter referred to my colleague in another place and bring back a reply.

PRISONER, PASSPORTS

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Minister for Correctional Services, a question about a prisoner being issued with two different passports whilst incarcerated in Northfield Prison.

Leave granted.

The Hon. SANDRA KANCK: The facts of this tale are as simple as they are startling. During 1996, James Lee Alexander, a prisoner within our Correctional Services system, was transferred from Yatala to Northfield Prison to complete the remainder of his sentence. As Mr Alexander was entitled to day release, he requested access to some of his personal papers so he could do some banking and pay some debts. Amongst the papers that he received was his current Australian passport. Having received it, Mr Alexander could quite simply have hopped on a plane and headed off to a country that did not require a visa for entry. He chose not to do so, but the lax state of security caused him to wonder what other documents he might be able to obtain.

So, whilst he was in prison, Mr Alexander applied for and received an Irish passport and a British passport under a former name. He was able to do this because he was born in Ireland and lived in England for some time, and had changed his name by deed poll since arriving in Australia. So, James Lee Alexander had the choice of three passports on which he could have left the country during day leave whilst serving a custodial sentence.

My questions to the Minister are: Does the department have a policy of providing prisoners entitled to day leave without their passports? If not, will the Minister investigate and report back to the Parliament how Mr Alexander was able to obtain three passports while in prison and ensure that these embarrassing lapses in security do not occur again?

The Hon. R.I. LUCAS: I will refer the honourable member's questions to the Minister and bring back a reply.

AUSTRALIAN NATIONAL

The Hon. CAROLINE SCHAEFER: I seek leave to make a make a brief explanation before asking the Minister for Transport a question about the future of rail workers.

Leave granted.

The Hon. CAROLINE SCHAEFER: Yesterday the *Advertiser* confirmed that the Federal ALP Caucus has agreed to oppose the legislation, to be introduced I think this week in Canberra, for the sale of AN. That caused me to move a private member's motion to which I will speak further this afternoon. However, in the light of considerable evidence, including some new evidence, I ask the Minister to confirm the position of the South Australian Government on this matter. If the Federal ALP is successful in blocking the sale, how will the rail work force in this State be affected?

The Hon. DIANA LAIDLAW: Certainly we would hope that, with the assistance and support of both the ALP and the Australian Democrats in this place and federally, there will not be opposition to the sale of AN because that is certainly not in the best interests of the future of either rail workers or a viable rail sector in this State.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: You have never said you would support the sale. You have never said there are conditions to be attached. What are you suggesting?

The Hon. M.J. Elliott: It is up to you.

The Hon. DIANA LAIDLAW: What are you suggesting? The sale of AN is something the Government does support. We are working with the Federal Government, the rail workers, the Wheat Board, the Barley Board, SACBH, Port Augusta council and many others to make sure we get the best deal for the rail sector and rail workers, something they have not enjoyed for many years in this State. It is about time they were listened to and given some care and attention in terms of their future. I describe this as a disgraceful decision. It is the Federal ALP playing politics, and it has done much damage to rail in this State over the years because of its lack of policy, vision and management. That is the view of work force representatives speaking on behalf of the majority of employees at the Port Augusta workshops.

It will be sobering for members in this place if I read what the work force is saying—so that the politicians just listen. The Labor Party says that it listens to what the people say. Well, let's see if it does. This letter is from Kym Thomas, Frank Sghirripa and Ian Brown, who represent the workshop and rail workers generally in Port Augusta, and they say:

> As members of the 'AN Port Augusta Rail Taskforce'—

which I happen to chair—

> we wish to advise you of the support of the majority of employees within the Port Augusta workshops of the action being taken by the Government to sell the business activities of Australian National. While we realise that the action of the Government will put us as rail employees in the unknown, in relation to future employment, we believe that it is better for ourselves and our families that a final decision is made in relation to the future of the railways as soon as possible.

They are pleading: 'Don't play politics; get the legislation moving.' The letter continues:

> Over the past decade the number of people employed by Australian National has substantially reduced to a stage whereby it is now difficult for us to undertake tasks which are allocated to us by management. Even with this continuing reduction in employee numbers, management is looking for further cuts and transferring of activities from the Port Augusta workshops to Adelaide to seemingly justify their own existence.
>
> This continuing uncertainty is destroying morale of the work force that remains, and we believe that a new rail operator of the workshops and the transport activities of Australian National would be more beneficial to ourselves, families, the community of Port Augusta and Australia as a whole.
>
> We therefore ask for your support for the passing of the relevant legislation enabling Australian National to be sold.

In South Australia that legislation will be introduced in about five weeks, and I hope that the ALP and the Democrats, when assessing it, will heed this advice. The letter continues:

> In forwarding this advice we also indicate that a petition is being arranged within the work force for tabling within the Parliament, confirming the views outlined herein.

I indicate again: if the Labor Party does what it says it does, particularly in terms of the blue-collar skilled work force in this State, it should heed the advice of the work force in this instance and it should be placing pressure on its Federal colleagues in the Senate and the House of Representatives not to continue the debilitating role that the ALP has played in the operation of Australian National over many years and now start supporting a new future for rail in this State.

The Hon. T. CROTHERS: As a supplementary question, in the event of that portion of rail line in South Australia still owned and controlled by AN being sold, and, in the event, as some people are speculating, the Federal Government and the State Government make some pronouncement with respect to the completion of the Alice Springs to Darwin rail link, what impact could that have if the purchaser of the AN business out of Port Augusta is some entirely different private business person?

The Hon. DIANA LAIDLAW: It is a reason for concern for the honourable member. Certainly, it is important that we continue to fight for Federal Government and investor support for the Alice Springs to Darwin railway, and to that end the Premier will be meeting with the Prime Minister on 6 June. In the meantime, we will be insisting upon third party access to rail operations in this State. There would also be third party access to the Alice Springs to Darwin line, not monopoly access, so the rates to be charged—

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: I understand that issue, and that is why the track access regime will be particularly important. We will see some movement by the Federal Government in the next few weeks for South Australia to be the headquarters, but I agree entirely with the honourable member that the rates are important in terms of the future viability of rail, particularly with competition from road, and that is why we have supported the national track access as an independent body in terms of setting the rates. We support very strongly third party access, rather than owner-operator only of rail lines in the future. That is in the best interests of rail and jobs in the State.

The Hon. T. CROTHERS: I asked what the impact would be if the AN section in South Australia was sold to an owner other than that which might provide private capital for a future Alice Springs to Darwin rail link.

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: You suppose many things. We will call you 'Mr Suppose' from now on because that is all you have ever done in here.

The PRESIDENT: Order! This is a supplementary question. I ask the honourable member to put the question.

The Hon. T. CROTHERS: The question I am directing to the Minister is that if two different companies own the rail links—that is, one in the Northern Territory for the Alice

Springs to Darwin line and one in South Australia for the Port Augusta to Alice Springs line—what impact will that have on the future employment of those who are presently employed at Port Augusta? At the present time—

The PRESIDENT: Order! There cannot be an explanation.

The Hon. T. CROTHERS: I thought I had better explain it because she does not understand.

The Hon. DIANA LAIDLAW: It will be absolutely fantastic because the honourable member is assuming, and I am certainly fighting for the Alice Springs to Darwin railway to be constructed. Many thousands of jobs will be involved in the construction of that railway and in the operation of the line. So, the honourable member's support for that initiative is important.

In relation to the owner of the lines, as I indicated, it will not be a matter of concern. In terms of the Alice Springs to Darwin railway, the owner will be aware that they must be competitive with their rates to attract business from Melbourne, Adelaide, Sydney and Perth through to Darwin and also to win rail business back from road. So, their rates will be competitive, and I do not think the honourable member has reason for concern.

The Hon. A.J. REDFORD: I have a supplementary question. Has the State shadow Minister for Transport (Hon. Terry Cameron) made any public comment or put out any press releases on the topic covered by the ALP Federal Caucus decision? If so, what is his and his State counterparts' reaction to the Federal decision?

The Hon. DIANA LAIDLAW: I think he has been strangely silent. He generally has a view on most subjects and he probably has a view on this subject, but I understand that it is a view that has been opposed by his Caucus. It would be interesting to learn what the ALP believes in terms of AN's future and rail jobs, particularly in the light of the important plea that has come from the work force in Port Augusta. It would be in the interests of the public and the work force in Port Augusta to have not only the shadow Minister for Transport identify his view but also for the Leader of the Opposition to show some interest in the work force and families at Port Augusta, Islington and the like. However, as I have said, the honourable member is strangely silent—no interjections even now. We would all like to know the honourable member's views and those of his Party. Is it true that the honourable member holds some views but he has been rolled by his Party and that he does not support the work force? There are fundamental questions that we in this place would like answered. Certainly, the work force is particularly vulnerable and should not be made more vulnerable by any opposition to this sale.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order!

BUSES, CITY

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport questions about city bus congestion.

Leave granted.

The Hon. T.G. CAMERON: Concerns over increased bus movements in the city have escalated in the past few months. The contracting out of bus services to Serco means that many bus routes terminate in the city and drivers need to loop around to resume their service. An increasing number of buses are being parked on major city streets, including King William Road, and bus drivers are using residential streets as thoroughfares. A U-turn at the junction of King William Road and Victoria Drive in the city has been proposed by Adelaide City Council to solve the problem of buses congesting city and North Adelaide streets. It has been reported that the State Government supported a proposal and may change the Road Traffic Act to allow a 12 month trial run of the U-turn. My questions are:

1. Will the trial U-turn be given the go ahead and, if so, when will it begin?

2. What research has the Department of Transport—

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: The Minister will have an opportunity to answer my question in a moment—or Trans-Adelaide conducted to ensure that such a proposal would not lead to long delays for motorists using one of Adelaide's busiest roads?

3. Since the contracting out of some services to Serco, how many extra buses are now using, parking or operating in the streets of the square mile of Adelaide?

The Hon. DIANA LAIDLAW: Yesterday I gave notice of amendments to the Road Traffic Act which I will introduce tomorrow and which provide for U-turns by buses and, by regulation, nominating such sites. The site to be proposed by regulation would be King William Street and Victoria Drive. This scheme will begin as soon as the honourable member supports the legislation and we get it through this place and the other place and roadworks can begin. The honourable member does not have a proud record of moving legislation at great speed through this place, so I ask him on this occasion to move this legislation quickly so that the people for whom he expresses some interest will, in fact, be well served by this new initiative.

ELECTRICITY, PRIVATISATION

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Leader of the Government a question on the subject of privatisation.

Leave granted.

The Hon. L.H. DAVIS: Last week the New South Wales Labor Treasurer and Energy Minister, Mr Michael Egan, announced that the New South Wales Labor Government was examining a proposal to raise up to $22 billion by privatising the State's electricity industry.

The Hon. A.J. Redford interjecting:

The Hon. L.H. DAVIS: I think it's Terry Cameron's faction.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! I will sell the lot of you in a minute, if you do not quieten down.

The Hon. L.H. DAVIS: It certainly has brought the Opposition alive in a way that we have not seen so far today.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: This proposal to raise up to $22 billion by privatising the State's electricity industry will be achieved by selling off three generation companies, six distributors and a transmission operator. Mr Egan said that the sale of electricity assets would eliminate the $13.2 billion budget sector debt and generate annual budget savings of around $500 million which would be available—

The Hon. T.G. Cameron: You've been using the same rhetoric—

The Hon. L.H. DAVIS: The Hon. Terry Cameron is not even intent upon—

The Hon. T.G. Cameron: It's good to see that—

The PRESIDENT: Order! I suggest that the Hon. Legh Davis does not get personal in his question. It would be a good idea if he did not do that.

The Hon. L.H. DAVIS: I am not. The Hon. Terry Cameron is not even interested in what his factional colleague in New South Wales said.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: They are just being disrespectful to their colleagues in New South Wales. Mr Egan said—

An honourable member interjecting:

The Hon. L.H. DAVIS: Look, I would never try and imitate you because you are doing such a good job of it yourself.

The PRESIDENT: Order! It is not helpful at all to the Parliament to become personal in questions or interjections. I suggest that the questioner just get on with the question.

The Hon. L.H. DAVIS: I quote Mr Egan who said that $500 million would be available for 'better schools, better hospitals, better public transport and roads, a cleaner environment, safer streets and neighbourhoods and better community services'. I further quote Mr Egan who said:

> In addition, we would have around $3 billion left over for almost immediate new capital investment in social and economic infrastructure and environmental enhancements.

Mr Egan said that the challenges for the Labor Party Government were to keep delivering better services with fairer sharing of the benefits and costs. He queried why many in the Labor Party saw a continued adherence to public ownership of Government business as a distinguishing feature of the ALP. Mr Egan said—and I note the silence:

> Continuing public ownership of utilities is pointless—

Members interjecting:

The PRESIDENT: Order! I think the questioner provoked that.

The Hon. L.H. DAVIS: Mr Egan said:

> Continuing public ownership of utilities is pointless if it provides no continuing social or economic benefit and if the public investment tied up in it can be invested elsewhere to achieve better results for the community.

The Minister said:

> As I see it, if dogma defeats our overriding purpose of achieving a more protected and secure community, then the dogma must go.

He referred to the newly elected British Prime Minister Tony Blair, as follows:

> What works is what matters.

Mr Egan added to his comments on Monday—

The Hon. R.R. Roberts interjecting:

The Hon. L.H. DAVIS: I am not allowed to express an opinion, Ron, you know that. Mr Egan added to his comments on Monday of this week when he stated—

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS:—that he would like to start the privatisation process by selling Pacific Power this year if his plans were approved. He conceded that Australia lacked the investors to buy all of the industry at prices competitive with what overseas investors would pay. Mr Egan was quoted in *The Age* yesterday as saying that many New South Wales electricity businesses might end up being sold to groups of large investors. Power industry observers would expect over 20 foreign companies would be interested in buying into the New South Wales electricity industry if the privatisation proceeded.

The Hon. A.J. Redford: It can be added on to the Hon. Terry Cameron's register of interests.

The Hon. L.H. DAVIS: That is a very good point and is the sort of thing that the Hon. Terry Cameron, with his other hat on, would entirely approve.

The PRESIDENT: Order! I suggest that the questioner draws his question to a close.

The Hon. L.H. DAVIS: I am sorry, but I was diverted by that very pertinent interjection. The New South Wales Labor Government's decision to push for privatisation of the electricity industry appears to be in sharp contrast to the position of the Labor Opposition in South Australia. The Leader of the Opposition, Mr Mike Rann, has been constantly bleating about the privatisation of the water industry of South Australia when, in fact, it is not a privatisation at all but simply an outsourcing of the management of water and waste water, because the Government in South Australia retains ownership of the assets and of the pricing of the services. The Leader has also complained about the foreign ownership of United Water, the successful tenderer for what was the world's largest water outsourcing contract in 1995. Therefore, my questions, to the general acclaim of the Opposition, are:

1. Does the Minister have any comments to make about the privatisation proposals in New South Wales for the electricity industry and the attitude of the Labor Opposition in South Australia with respect to privatisation?

Members interjecting:

The Hon. L.H. DAVIS: I know that is a ruthless question.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: Further:

2. Can the Minister advise the Council whether the Leader of the Opposition, Mr Rann, in his capacity as a Minister in the Bannon and Arnold Labor Governments ever embraced the dirty 'p' word, which for the benefit of the Opposition stands for 'privatisation'?

The Hon. R.I. LUCAS: That was an excellent question from the honourable member—

The Hon. T.G. Cameron: It will be a whole lot better than the answer.

The Hon. R.I. LUCAS: It will be better than the answer, I can assure you; it was an excellent question. I wish I had had prior notice so that I could have prepared something of equal quality. What we can say about the question is that for the first time in two days we have actually seen some signs of life from the Opposition during Question Time.

The Hon. Diana Laidlaw: They haven't told us what they'd do with AN.

The Hon. R.I. LUCAS: We do not know what they are going to do with AN, but at least we know that they are alive. The sad fact is that, when we talk about privatisation in South Australia, we have a public relations huckster masquerading as a Leader. The sad fact is that with the Leader of the Opposition in another place we have someone who in Government embraced privatisation.

The Hon. ANNE LEVY: Mr President, I rise on a point of order. Under Standing Order 193 no injurious reflection shall be permitted upon any member of the Parliament of this State—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY:—and I ask that the Minister be asked to withdraw his offensive remarks about a member of the other House of this Parliament.

The PRESIDENT: Order! I ask the Minister, if he has made offensive remarks, to withdraw them.

The Hon. R.I. LUCAS: Mr President, I am not sure which particular offensive remark the honourable member is referring to.

Members interjecting:

The Hon. R.I. LUCAS: It depends. If it is in relation to calling him a Leader, I withdraw; if it is in relation to calling him a public relations huckster, I withdraw—

The PRESIDENT: And apologise.

The Hon. R.I. LUCAS: I profusely apologise for calling him a Leader or a public relations huckster. A public relations stunt person—is that all right?

The PRESIDENT: No, we do not need an explanation, we just want you to apologise.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Someone expert in public relations, is that acceptable? Someone masquerading as a Leader. Now we have agreed on a description of the Leader of the Opposition, let us talk about his actions. What we have is a person who in Government wholeheartedly embraced, supported, endorsed and voted for privatisation: whenever it popped its head up he was voting for it and supporting it. Mr Rann, Mr Bannon, Mr Arnold, the likes of the Hon. Mr Roberts and the Hon. Carolyn Pickles supported the sale of the majority interest in the South Australian Gas Company—

Members interjecting:

The Hon. R.I. LUCAS: The Hon. Carolyn Pickles and Mike Rann supported the privatisation of the South Australian Gas Company and the privatisation of the State Bank.

Members interjecting:

The Hon. R.I. LUCAS: Take a point of order. Make a personal explanation. Dissociate yourself from Mr Rann if you want to. Mr Rann is running around trying to find an issue upon which to campaign at the moment because, as the Hon. Terry Cameron knows, the Labor Party's research—of which I have been given an informal briefing—has made it quite clear that Mr Rann—

An honourable member interjecting:

The Hon. R.I. LUCAS: I will not say that it is from Mr Cameron, but of which Mr Cameron is aware (let me put it that way)—is on the nose with the South Australian electorate, and there has been a deliberate strategic decision in relation to trying to position Mr Rann in the electorate. We have Mr Rann trying to reinvent himself as someone who now opposes privatisation: someone who in Government supported the sale of the State Bank—no bigger public sector or Government institution did we have in South Australia; someone who supported the sale of the South Australian Gas Company; part of a Party that Federally supported the sale of the Commonwealth Bank, when specific promises were given against the sale of the Commonwealth Bank; Qantas, Telecom—or parts of it.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The simple fact of life is that the people of South Australia cannot believe anything that the Leader of the Opposition, Mr Rann, ever says on the issue of privatisation. The Hon. Mr Rann is running around at the moment, supported by some members of this Chamber, trying to indicate that the Labor Party opposes privatisation and will oppose privatisation if ever elected to Government. No-one in South Australia will believe that, because the record is stark: it is on the record, it is public that Mike Rann supports privatisation and will continue to support privatisation. Irrespective of the fliers that are put around in the electorate, irrespective of the claims that he might make, everyone knows his record, supported by the Hon. Carolyn Pickles, the Hon. Terry Cameron and the Hon. Ron Roberts.

An honourable member interjecting:

The Hon. R.I. LUCAS: If you want to dissociate yourself from Mr Rann, stand up and make a personal explanation.

The Hon. T.G. CAMERON: I rise on a point of order. The Hon. Mr Lucas has said that I was part of the decision. I was not a member of Parliament at the time.

The PRESIDENT: The honourable member has answered his own question: if he was not here there is no point of order.

The Hon. R.I. LUCAS: I did not say the Hon. Mr Cameron was a member of Parliament: I said he supported it. He was one of the key powerbrokers in the Labor Party organisation at the time. He was one of the few who sat around the table with Mike Rann running the campaign last time. He was one of the few privy to the market research last time and, through informal sources rather than formal, is aware of the market research now as to what the public perception is.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: Yes, but he can still get hold of the information when he has to.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order!

The Hon. T.G. Cameron: We pay for our own research: we do not use Government departments.

The Hon. R.I. LUCAS: The Hon. Mr Cameron is confirming his knowledge of the Labor Party's research. He is on the record.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order!

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! The Hon. Terry Cameron.

The Hon. R.I. LUCAS: The Hon. Mr Cameron confirms on the record his knowledge of the recent market research that has been conducted by the Labor Party and, as I said, I am aware that he knows of it and he knows he is aware of it, too.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: That is a bit like the meeting they had to come and meet the Labor leader in the southern suburbs, when the only people present were the spouse, or partner of one of the Liberal members of Parliament, Mike Rann and the candidate. There were not many listening to him on that occasion.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: No, it was not Joe Rossi. This was in the southern suburbs. The honourable member has rightly pointed out that the policy proposals of the New South Wales Treasurer were watched with interest. We will watch with interest the claims from Mr Rann and his colleagues in the lead-up to the election. We also know that Mr Rann says he is a very close associate of Mr Blair, a great supporter of

his policies in the UK and, as the honourable member has indicated, Mr Blair is a great privatiser as well. So, we can clearly see the direction in which Mr Rann is heading in relation to privatisation and we know, in the unlikely event of the Labor Party, under Mr Rann, being elected, what Mr Rann's intentions for ETSA Corporation would be.

EXPORTS, STATE

The Hon. T. CROTHERS: I seek leave to make a precied statement before asking the Minister for Education and Children's Services, Leader of the Government in this Chamber, some questions about South Australian overseas exports.

Leave granted.

The Hon. T. CROTHERS: In a recent article in the journal *Track and Signal*, the Australian Deputy Prime Minister and Minister for Trade (Hon. Tim Fischer) spoke at some length on the number and range of opportunities which exist for the Australian railway and related industries in the nations of South-East Asia. Amongst the successful companies he named in this particular field of endeavour were Evans Deakin, John Holland, Queensland Rail, Bradhen, Union Switch & Signal, Barclay Mowlem and McConnell Research Enterprises. I have no knowledge as to whether these companies are Australian owned, partly Australian owned or, indeed, Australian offshoots which are totally owned by overseas interests. However, what I know is that there has been a spate of takeovers of Australian companies in recent years by overseas interests. Added to that, there is a recent awakening by many European companies that, given the massive increases in purchasing capacity by many of the nations of South-East and Eastern Asia, they should seek to position themselves in Australia, which they see as a very suitable springboard for their products into those markets of Asia as previously mentioned.

Like the previous questioner, the Hon. Legh Davis, I further realise that Australia survives by being a trading nation and that logic dictates that Australia must, in its own interests, follow a fairly liberal path in respect to our attitudes towards trade and investment capital. Indeed, it was the massive investment of British capital in the United States all through the nineteenth century which ultimately enabled the United States to become what is today recognised as the world's foremost power. However, in saying that, one must also recognise that it took two massive world wars to take United States ownership of its industries away from British ownership. This, because of the millions of lives lost, is regarded by some as too high a price to pay for such transfer of ownership.

Just to complete the circle of my comments, I am aware of the massive growing balance of payments that besets Australia. Estimates in respect of how much profit from Australian companies is expatriated to their overseas parent companies vary from between $8 000 million and upwards each year. I further understand that overseas companies that are owned by Australian companies remit $3.5 billion to $4 billion back to Australia.

I realise that much of the subject matter that I have touched upon relates to Federal legislation. However, in the same way as the Hon. Legh Davis touched upon the Labor Party in New South Wales, I now touch upon the Government's Federal Liberal counterparts in the area of legislative responsibility. My questions to the Minister are as follows:

1. How much profit from South Australian-based companies was expatriated overseas in 1990 and again in 1996?

2. How many South Australian companies, either fully owned here or owned by Australian interstate companies, have been sold to overseas interests during the years 1990 to 1996? I include in this question State Government owned companies and public utilities.

3. What, if any, regulation exists at either Federal or State level which would require wholly owned overseas companies to reinvest a percentage of their profits in either South Australia or Australia? I ask this question because this provision exists in other countries.

4. Finally, but by no means exhaustively, if no such provision exists, will the Leader ensure that this possibility is raised by the Premier when next he attends an Australian political leaders' summit or, alternatively, that he will run the matter past senior officials of the State Treasury and bring back an answer to this Council as to what impact the expatriation of profits from Australia to overseas countries has on the balance of payments of this nation?

The Hon. R.I. LUCAS: I will take that question on notice and bring back a reply as soon as I can.

MATTERS OF INTEREST

RURAL ADJUSTMENT SCHEME

The Hon. CAROLINE SCHAEFER: The Federal Government in its recently handed down budget foreshadowed major changes to the Rural Adjustment Scheme (RAS). At the same time, the Minister for Primary Industries and Energy (Mr John Anderson) released the McColl interim report on the review of this scheme. The budget indicated that RAS would be scrapped and replaced by a new rural policy package. I would like briefly to comment on the pros and cons of the McColl report as I see it. RAS has not been successful. At best, it has always been viewed as unfair. As you would know, Mr President, there are myriad stories of people who have missed out on RAS funding because they were not viable in the long term only to find that their neighbour in seemingly identical circumstances was deemed inappropriate to receive funding because they were supposedly too affluent in the long term.

In my view, there has never been a case for Governments to be bankers. A review of this scheme is long overdue. I concur with McColl's view that farmers must view themselves as business entities and must hone their skills to an even more competitive level. They must learn new and modern management techniques and, in particular, they must learn the skills necessary to handle risk. I also applaud the strategic framework which points to a sustainable farm sector that is responsive to markets, embraces changes and deals self-reliantly with risk.

The review supports the rural communities access program. I applaud that because it empowers communities to take responsibility for themselves. It hints at the need for new investment structures and hopefully some tax reforms to go with them to address inequities in savings and capital input. However, as well as suggesting these drastic changes, it

recommends separating economic measures from social assistance. My only comment to that is 'nice work if you can do it' because, although I am mostly quite economically 'dry', the idea of separating the farm business from the farm home is closely akin to separating Aborigines from homelands and would tear the heart out of the bush. I look forward to seeing the final report when it is tabled.

ELECTRONIC FIELDS

The Hon. T.G. ROBERTS: I rise to indicate a matter of interest for constituents of this State. It concerns the problems that people have in relation to electronic fields and hand-held cellular phones, and it could possibly extend to radar guns, which would make the Minister for Transport a little interested. There is growing concern in the community about the placement of telecommunication towers in or near schools or areas that are heavily populated and electric magnetic fields (EMFs) from exposure to small household appliances, such as hair dryers, etc.

If you try to form an opinion by reading current literature and listening to vested interests, it is difficult for individual members of the community to pick up anything that makes sense that is not contradicted by one expert or another. You must weigh the evidence yourself. In most cases, parents of small schoolchildren and people who live in densely populated areas with high tension wires travelling over their home generally take the conservative view that there is something to fear and that there are dangers associated with EMFs and cellular phones and towers.

Some research is being done to try to get a fix on exposures, but even the scientific community is not unified in its approach as to, first, how testing should be done and, secondly, how the results should be collated. There are some reminders of the past and dangers associated with other products. Unfortunately, the public had to wait for the body count via epidemiological studies before the results could be shown to be conclusive. If you take smoking as an example, there are still people who believe that smoking does not cause cancer or have any harmful effects. There are not too many but there are some. For those people, conclusive evidence had to come from the industry itself when it made public declarations that its product was an agent of cancer.

The same evidence is now emerging in respect of asbestos, and many community awareness programs are starting to be put into place. Some programs have been put together that isolate people from the dangers associated with certain products—many of which have been withdrawn and for which many alternatives have been found. However, in respect of the aforementioned, what we seem to be experiencing is growth in the development of products that are associated with electric magnetic fields or in cellular phone technology, which is now starting to cause concern about the use of microwaves. An article in the *New Scientist* states:

> A hundred Australian mice have delivered a worrying message for owners of mobile phones. The mice, which were exposed to microwave pulses similar to those experienced by cellular phone users, developed more than twice as many immune cell cancers as a similar group of mice which had not been exposed to radiation. Experts in the biological effects of radiation are urging mobile phone users not to panic. But they say that further research is now needed to assess the health risk posed by the equipment.

Therein lies a wrapping up or rounding up of the problems associated with what people would regard as a possible problem. Scientific evidence leads us to believe that there is a problem with exposure and cause for concern, yet the recommendations are that we are not to worry too much about it. Unfortunately, the public has to make up its mind on exactly the same information.

WINE MUSEUM

The Hon. M.J. ELLIOTT: I wish to address the question of the wine centre. I note in today's *Advertiser* a report that there has been agreement between the Government and the Labor Party in terms of legislation being introduced into Parliament to use the Hackney site. It is worth noting that back in 1985 John Bannon made an announcement about the Hackney parklands plan and, in particular, referred to the 5.2 hectares of land that would be returned to parklands use, allowing expansion of the Botanic Gardens but reserving the Goodman Building for a specified range of community uses. That was in September 1985.

The Hon. T.G. Roberts: His influence has waned somewhat.

The Hon. M.J. ELLIOTT: It has. But here is another person whose influence should not have waned. On 30 August 1989 a Mr John Olsen, the then Liberal Opposition Leader, wrote to a Mr Morris and said:

> I wish to acknowledge your recent correspondence regarding the Adelaide Parklands Preservation Association. I appreciate your contacting me, including your letter-policy guidelines newsletter. A motion moved by Dr Bruce Eastick, spokesman on community resource planning, in March 1987 was unanimously supported in the House of Assembly and the then Legislative Council. A copy of the House of Assembly debate is attached for your information. The result of our motion was circulated to every council in South Australia. We recently congratulated the Government for announcing the restoration of parklands, but criticised them for making a promise in 1985 to restore a greater area, including the Hackney bus depot. It is a pity that this promise has not been honoured. We will continue to support moves to return alienated areas to the parklands and to further delineate second generation parklands. Bruce Eastick would be very pleased to meet you at some convenient time to discuss our policies further.
>
> Yours sincerely,
> John Olsen, Liberal Leader.

I seek leave to table a copy of that letter.

Leave granted.

The Hon. M.J. ELLIOTT: Mr Olsen made it quite plain that the Liberal Party believed that alienated land should be returned. That is the very land that he announced this morning would be alienated, in cooperation and in cahoots with the Labor Party which also promised that that land would be returned to parklands.

The Hon. R.D. Lawson interjecting:

The Hon. M.J. ELLIOTT: It is to be returned and was always to be returned. The land will be used for significant commercial use. It will not simply be a wine centre. It will have commercial function which includes a wine tasting cellar, promotion of wine sales, wine appreciation, entertainment facilities, bistro, cafe, event facilities, master classes, a retail outlet for products and conference facilities. It will be a centre with significant commercial activities. There would be great doubt that it would fit just within the buildings currently proposed to be used.

Nevertheless, I am not opposed to a wine centre. I have not heard anybody in South Australia express any concern or anything but support for a wine centre, but the question that needs to be answered is why that was the only site ever given serious consideration. For a brief period of a couple of weeks the Government looked at the site just down the road at the Torrens Parade Ground, but the question had been asked: why didn't the Government look at the wine cellars at Magill, why

didn't it look at the Barossa Valley or at a number of Government-owned buildings around Victoria Square, all which would have been suitable, are part of tourist precincts and close to the restaurant strips within Adelaide?

We do not have just the greenies opposing this location: the Architecture Foundation also wrote to the *Advertiser*. Such well known greenies as John Chappel signed the letter expressing concern. A lot of leading architects around Adelaide have been very critical of that site. The Friends of the Botanic Gardens—and that land was to be returned to the Botanic Gardens—have been critical. The Parklands Association and the Civic Trust have expressed concern. The National Trust has expressed concern—a range of organisations. In fact, only one group is supporting the Government, namely, the wine industry. I can understand that. The wine industry wants a wine centre, but that should not be the debate. The debate in South Australia is not about whether we will have a wine centre but where it should be situated.

The Government has wasted the past six months because it has never taken its focus off one site—a site with significant political opposition. I note that the tender documents require that the people who put in the tender need to address political issues. The Government appears to have realised that there will be a need to address risk management—environmental, planning, media, union and political risks. The Government is taking a political risk. The wine centre is being put at risk because of stupid site selection.

ITALIAN REPUBLIC

The Hon. J.F. STEFANI: This coming weekend the South Australian Italian community will celebrate the fifty-first anniversary of the Italian Republic and I have the privilege to be among the many invited guests to share in the special celebrations on this important occasion. For many South Australians of Italian origin South Australia has become their home since arriving from Italy. Today we share in many common ideals and mutual democratic values. Above all we share with great pride the important achievements and contributions that many Italo-Australians have accomplished since their arrival in Australia.

The deep bonds that have been developed between Italy and South Australia are a reminder of the great human values and personal links that exist between our two countries and our people. Italy and Australia share enduring links of tradition and culture, enhanced by almost one million people of Italian origin now living in Australia.

Many of us would be aware that Italy and Australia are strong trading partners and share important international interests in economic and political cooperation. Following the visit to Italy earlier this year by the Minister for Foreign Affairs, the Hon. Alexander Downer, other ministerial visits have been announced by the Deputy Prime Minister and Minister for Trade, the Hon. Tim Fischer, and a visit to Australia by the Italian Foreign Minister (Hon. Lamberto Dini) is scheduled for later in the year. It is also significant to mention that Italy and Australia work together in international forums across a wide range of global issues such as the establishment of an international criminal court and the further reform of the United Nations.

It is important to note that following Mr Alexander Downer's visit to Italy a joint announcement was made by the Italian and Australian foreign ministers detailing the establishment of the Australia-Italy Economic Cultural Council to facilitate increasing cooperation on a broad range of economic investments, science and technology as well as cultural issues. Within this framework specific committees chaired by the relevant Ministers will be established to promote broader bilateral cooperation, especially in the area of economic and trade activities. It is further envisaged that the two Ministers will cooperate to establish a forum for business people to meet under these auspices to provide input to the Australia-Italy Economic Cultural Council and to stimulate further industry to industry contacts and exchanges.

In acknowledging this key initiative I congratulate the Australian and Italian Governments and the respective Ministers of Foreign Affairs for taking such an imaginative decision. I am confident that the South Australian Government will work together with the Italian Chamber of Commerce and Industry, the Italian Consulate Office in Adelaide and the Italian Embassy in Canberra to further the interests of our State through the new council. As many South Australians of Italian origin will celebrate Italy's national day, as a broader community we will be sharing the many significant contributions and achievements which many immigrants of Italian origin have accomplished for the development of our State and the benefit of our people.

NUMBERPLATES

The Hon. T.G. CAMERON: I rise to speak on a matter of some urgency. On Monday 1 June 1997, a three month moratorium on concealed, covered or illegal numberplates comes to an end. From next Monday, thousands of motorists may be liable to fines ranging from $227 up to $1 000 from a police blitz on numberplates.

Let me make quite clear from the start that I support moves to crack down on those motorists who attempt to evade speeding fines by having illegal numberplates or tampering with their plates in any way whatsoever so as to obscure the number and avoid prosecution. However, thousands of law abiding motorists are at risk of being fined because they do not know that their numberplates may be illegal. Numberplate confusion is rife in South Australia and the present situation is bordering on becoming a fiasco.

This whole sorry saga began in February following a story in the *Advertiser* (which was incorrect) but which announced a crackdown by the Minister for Transport on illegal and obscured numberplates. My office has been in touch with the Registration and Licensing Division of the Motor Vehicles Department, the Police Traffic Information Office and the Police Traffic Services to try to clarify the legality of numberplates. Apparently it is a fairly complex issue.

For example, plastic number plates were made illegal after 1985, but it is unclear whether or not those attached to vehicles from 1985 are legal. Information supplied to my office by the Police Department's Traffic Information Office states that numberplates manufactured prior to 1981 need not be replaced if they are still clearly legible and are not faded, even though they do not comply with current specifications. If replacement is required, the replacement must conform to the current standards. This means that they are to be metal embossed with the piping shrike emblem and carry the 'SA Festival State' message. This, in fact, is not the case.

Information supplied by Statewide—and that is the information on which I am relying—shows that slimline, custom plates, special edition plates, trade plates and taxi plates are not required to carry either the piping shrike or the slogan. Another example is plastic covers for numberplates. Plastic covers are not illegal if they are kept clean and not

cracked, thus preventing dust from obscuring the numberplate. But they are illegal if they are attached with the intent to make a numberplate unreadable.

The ingenuity used by some motorists who are attempting to evade speed camera fines is quite astounding. Examples include simple methods such as placing mud over a letter to obscure the numberplate, covering it with a towbar ball or a bicycle rack, through to baking the numberplate in an oven, covering plastic covers with gladwrap and spraying metallic specks onto the plate to reflect the flash of speed cameras. It would appear that the only drivers who actually get caught for speeding in this State—

The Hon. Diana Laidlaw: Where did you learn all these things?

The Hon. T.G. CAMERON: I was advised by the police. It would appear that the only drivers who actually get caught for speeding in this State are those people with legal numberplates. But thousands of others—and there are thousands—who obscure their numberplates, using one shonky method or another, are getting away. I understand that police are currently discarding about 8 per cent of all camera photographs because registration numbers are unclear or obscured. This means that up to one-tenth (or more than 60 000) of the numberplates on South Australian motor vehicles may be illegal. As I have stated, I fully support the Government's attempt to catch those people who deliberately try to evade speeding fines, but I oppose the sloppy, inefficient and mean spirited way in which it has gone about it.

The Hon. Diana Laidlaw: How else would you do it?

The Hon. T.G. CAMERON: If the Minister listens, I will tell her. I understand that a $40 000 advertising campaign has been run over the last three months, but its impact has been limited. The campaign included posters being placed in police stations and warning notices being placed on vehicles displaying illegal numberplates. The problem is that most people do not go into police stations so they are hardly likely to see the posters. As for the warning notices issued by the Department of Transport, they fail to explain what is wrong with the vehicle numberplate, and they do not even carry a telephone number for motorists to call and find out. In other words, if your numberplate is illegal, you could face a fine of $1 000 but the notices do not state what is wrong with the numberplate or whom to contact if you have a query. Again, it is sloppy and inefficient.

Are the police recording the numberplates of cars receiving the yellow warning notices? I can assure the Minister that confusion over numberplates amongst motorists still reigns. People have been ringing my office desperate to find out if they are liable to a fine. To avoid accusations of revenue raising, I call on the Government to place this poster in Saturday's *Advertiser* to help inform the public—

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

JUVENILE JUSTICE

The Hon. R.D. LAWSON: I wish to speak on aspects of the juvenile justice system in South Australia and, in doing so, commend to the House a report prepared by Mr Ian Cameron, a university student participating in the South Australian parliamentary internship scheme. Mr Cameron has produced a very thorough report on the topic of general deterrence within the South Australian juvenile justice system and, in doing so, has produced a 60 page report. This report, which is deposited in the Parliamentary Library, is I believe a very valuable resource which will be of assistance to any who might be interested in this topic.

The subject of juvenile justice has been a topic of many parliamentary and other reports, and Mr Cameron examines in some detail the history of the South Australian juvenile justice system from 1890, when the first children's court in Australia was established in this State. The State Children's Act was enacted in 1895; a royal commission on law reform was held in 1926, and it made recommendations on this subject.

The first modern legislation was the Juvenile Courts Act of 1941 which identified certain principles to be observed in making orders against children. I quote from that Act, as follows:

> Every juvenile court, in making any order against a child, shall have regard to the welfare of the child and the desirability of removing him from unsuitable surroundings and making proper provision for his—

pardon the sexist language—

> education and training.

This was, in effect, the beginning of the welfare model of juvenile justice which was carried through to the 1965-66 Juvenile Courts Act and the Act of 1971. Mr Cameron notes that the parliamentary debates before that enactment spoke of the practice of diverting young offenders and reserving court action for the more serious offenders, and that was achieved by the establishment of juvenile aid panels.

The recommendations of the 1976 royal commission chaired by Judge Mohr led to the Children's Protection and Young Offenders Act 1979. In 1990, the deterrent effect was introduced into the legislation in relation only to children who were dealt with as adult offenders, but no general deterrence was specified in the Act. In this respect, the juvenile justice system was different to that applying under the Criminal Law (Sentencing) Act which requires a court, in dealing with an adult offender, to consider amongst many other things the deterrent effect of any sentence not only on the particular defendant but also on other persons. Nowhere in Australia does any juvenile justice system enable a juvenile court to take into account what is called general deterrence.

The report notes the parliamentary select committee of the House of Assembly in 1991 and its reports. It notes also a belief on the part of the committee that the concept of general deterrence was incorporated in its recommendations, and that is reflected in parliamentary debates. However, the courts ruled that the amendments which resulted from the enactment of the Young Offenders Act did not achieve any general deterrence in South Australia.

Mr Cameron has examined the process of the select committee in some detail. He suggests that there was a paucity of research, not only in the select committee but also in the parliamentary debates. He suggests that the concept of general deterrence in the youth jurisdiction should be excluded. I commend this report and Mr Cameron for his excellent work.

IMMIGRATION

The Hon. P. NOCELLA: I rise to make a contribution on the subject of the immigration quotas announced by the Federal Government last week. These quotas—or cuts, as they would be more properly called—represent an accumulated 20 per cent over a two-year period. Many who follow immigration matters have noticed that these recent announcements sit very awkwardly with the pre-election promises

made by Mr John Howard's Government. One promise, at a time when unemployment was even higher than it is now, was that the incoming Liberal Government would maintain the immigration intake at about 100 000 people per annum. We now have the figures for next year which show that the intake is to be barely 80 000, representing a cut of 20 per cent.

In my many years of following closely immigration matters I have never witnessed such a chorus of protest and expressions of disagreement from such a disparate and diverse series of groups and organisations in our nation. We had the first reactions from highly reputable business groups, one being the Australian Chamber of Commerce and Industry. Its Chief Executive, Mr Mark Patterson, was reported as having accused Mr Howard and Mrs Pauline Hanson of perpetuating myths. He said:

> The Australian Chamber of Commerce and Industry rejects the myth that immigrants cause unemployment. There is simply no evidence to support this spurious argument.

We heard similar contributions from the Real Estate Institute of Australia and the Master Builders Association of Australia. They also complained about this kind of decision which will have, in their expert view, negative consequences for their industries. Access Economics supported their view and went even further, declaring that, according to its research, immigration is at worst neutral and at best benign in the sense that it contributes to the economy.

Contributions against the decision of the Federal Government also came from the leaders of the Anglican Church, the Catholic Church and even some of the Premiers (the Premier of Victoria and the Premier of this State have stated that they disagree with this decision), while the academics came out in force to prove that a survey of more than 200 studies dealing with immigration found no evidence whatsoever to suggest that immigration contributed to unemployment.

Then we were treated to the unedifying spectacle of Mr Howard arguing with the member for Oxley, Pauline Hanson, as to who was the first one to find the link between unemployment and immigration—this discredited view which has been rejected by practically the whole of Australia and which colours the thinking of some people who would like to lock this country into a situation where there is no growth and no contribution by large numbers of immigrants towards Australia's being a success story and by those who, over the years, have brought with them the best from their countries of origin and have created an inclusive, fair and multicultural society.

EDUCATION, COST

The Hon. CAROLYN PICKLES (Leader of the Opposition): I move:

> That the regulations under the Education Act 1972 concerning materials and services charge, made on 17 April 1997 and laid on the table of this Council on 27 May 1997, be disallowed.

Labor opposes this regulation because we believe that every child has the right to a free, comprehensive and secular education with equality of access to education and training. This regulation seeks to legislate a responsibility for parents to pay compulsory fees in our public schools. Even worse, the regulation seeks to give the power to school councils to initiate a court action to recover as debt fees up to certain levels that have not been paid by parents.

For the first time in South Australia's history a Government has said that it no longer accepts full responsibility for meeting the costs of educating our children. This Government now says that if you are a parent you must not only pay your taxes but also pay for materials and services that your children might consume at school. This is a new school tax and, if one does not pay it, one may be taken to court.

The Olsen Government has introduced this regulation because it will not face the hard issues of how we pay the costs of running our schools. The Minister does not want to face the fact that school grants are no longer adequate to cover operating costs. The Minister does not want to address the issues of inequities between schools which can raise funds from wealthy communities and schools in less fortunate communities which do not have the same opportunity.

The Minister does not want to face the inequities resulting from individual schools charging fees which range from $40 to $400. The Minister does not want to admit that his decision to scrap 250 school service officers' jobs has meant that some schools have introduced levies and that parents are now, for the first time, being asked to pay for school staff. The Minister does not want to admit that there are no guidelines and rules about what voluntary school fees can be levied. The Minister does not want to admit that there is no accountability to ensure that school fees are spent on the purposes for which they are charged. The Minister does not want to ensure that parent contributions are related to enhancing educational outcomes rather than subsidising the Government's responsibility for day-to-day expenses. The Minister does not want to admit that the Government's plan to increase the number of computers in schools is based on parents paying increased fees.

The Minister has introduced this regulation in order to avoid dealing with the hard issues. He hopes that giving school councils new powers to levy and collect fees will overcome their frustrations of being asked to do more with less. I believe that giving the power to school councils to take fellow parents to court has the potential to create unprecedented new problems for the councils, principals, parents and their children. Surely it would have been better to tackle why school fees are so high and to delineate which costs should be met by the Government and which costs parents should be asked voluntarily to contribute to before turning school councils against parents in the courtrooms.

This regulation puts the school principal in the dubious position of deciding who will pay and who will be granted a waiver, and the school council will decide whether court action should be taken. I understand the frustrations of school councils and principals of continually having to raise and collect more fees to pay essential costs. While I also understand their initial endorsement of this legislation, I predict that it will not be long before they acknowledge that this new legislation is unworkable, disruptive and counterproductive. They may also come to realise that the Government has positioned itself to place more and more responsibility for funding schools on the shoulders of school councils and parents.

I also understand the frustrations of school councils and principals because many parents cannot pay these fees and some parents, for a variety of reasons, choose not to pay or at least make collections as difficult as possible. But surely a law to allow one group of parents to take other parents to court is not the way to go. These are schools, not business

corporations. The Minister will stand back while principals and parents fight it out in court.

The timing of this regulation pre-empts the work of a select committee that has taken a range of evidence on school fees. It is as though the Minister has taken a defensive position and does not intend to take any notice of the good advice being offered. To illustrate how this regulation cuts across the deliberations of the committee, I remind members that the terms of reference of the committee, which is chaired by the Minister, include:

- The level of school fees;
- The purposes for which fees are charged;
- Inequities between schools in the level of fees;
- Whether fees can limit curriculum choice; and
- The availability of and level of School Card.

I believe it would have been appropriate to wait for the report of the committee before even embarking on any proposal for a regulation.

The rationale behind the Minister's decision to introduce this legislation to allow schools to enforce the payment of fees is advice from the Solicitor-General that, while schools are not able to charge for tuition, parents can be charged for 'services and materials'. New regulation 229A describes materials and services to include books, stationery, apparatus, equipment, facilities and organised activities. The fact is that some schools have reached the point where parents' fees are meeting 75 per cent of the costs of running the school.

The Opposition has copies of school fee accounts which show that parents are not only being asked to contribute to items such as charges for consumables used by their children but also costs associated with school maintenance, repairs to car parks, electricity and, in some cases, the salaries of school service officers.

Following a reduction in funding for music teachers, schools are also offering private music lessons in school time paid for by parents. I would welcome advice from the Minister as to whether these items fall within the definition of services and materials and, if not, whether the Minister expects parents to top up the compulsory fees with voluntary payments to meet these costs. The definition of the basis for the compulsory fees does not appear to relate to charges now being levied by schools and listed in the schedule attached to the regulations. Many accounts sent to parents this year were not based on separate amounts for services and materials in the compulsory category and other amounts listed as voluntary. Accordingly, the amounts listed in the schedule attached to this regulation which purport to be entirely for services and materials would in most cases simply not stand up to scrutiny with regard to the purpose for which they were charged.

This regulation and the attached schedule is a device being used by the Minister to legitimise the existing situation. It is a sleight of hand to suggest that all school fees charged this year under the new maximum amounts relate only to materials and services. To this extent, the schedule is misleading and should be rejected on this ground if for no other.

Another serious question relates to schools withholding materials and services and disadvantaging children where fees have not been paid. This year the Opposition received several complaints from parents that children had been denied access to books because fees had not been paid. While the Minister has claimed that no child is to be disadvantaged, this is not reflected in the regulation. Section 10(b) of the regulation is the only section referring to the provision of materials and services to children. This clause provides that nothing in the regulation prevents the provision of materials and services subject to the payment of a fee. What exactly does this mean? My interpretation is that this section provides that, in addition to the annual fee for materials and services, there is nothing to prevent a school charging additional specific fees. Nothing in the regulation prevents a school from denying children access to materials such as books if fees have not been paid.

The regulation leaves open the option for a school to deny access and this is in conflict with the Minister's undertaking. The regulation should have provided that where fees are not paid a school must provide basic materials and services as if the fee has been paid in full. This is a major flaw in drafting and another reason why the regulation should be disallowed.

The schedule attached to the regulation reflects current fees at schools where they are below the new maximum levels allowed to be charged under the regulation. We know how much these schools are charging and the inequities are obvious. Even schools in the same country town have different fees. We still do not know, however, how much all the schools above the maximum levels are charging, although we do know that some schools are charging fees that are far in excess of the new maximum compulsory level.

In recent years there have been conflicting legal opinions about the power of schools to levy and collect fees and the latest advice was a basis for a circular sent to schools at the beginning of 1996. That circular stated that the new policies were, first, that any charge to parents had to be called a materials and services charge; secondly, that the maximum charge would be $200 for secondary school students and $150 for primary school students; and, thirdly, that schools could supplement this charge with a voluntary levy if supported by the school council.

Given that all schools would have levied for 1997 on the basis of the Minister's instruction, it should be possible for the Minister to table a complete list of fees being charged by each school in South Australia and demonstrate that fees up to $150 for primary and $200 for secondary schools are only for materials and services and that accounts told parents which amounts were voluntary. I believe that in the context of this debate, members have every right to know the full list and details of charges being made by schools before being asked to complete debate on this motion and I ask the Minister to table the information.

Under the Minister's new fee policy, schools face another dilemma. For many schools their fees will fall into an amount covered by School Card, an amount between School Card and the maximum compulsory fee, and a voluntary amount on top of that. This will add another administrative nightmare to the front office of every school that now have more formulas to deal with than any chemistry laboratory. I ask members to imagine a principal in court giving evidence against the parent of a secondary student or, for that matter, a member of the school council. It is not clear who would be called before the court; one might imagine that it would be the school council chairperson if evidence was required in relation to a secondary student who would be entitled to a School Card.

The court might be told that of the total school fees of, say, $300 the Government had paid the first $165 because the family consisted of a single, widowed, unemployed parent with three children who qualified for schoolcard. The court might be told that the parent had refused to pay the gap of $35 to the Minister's maximum compulsory fee of $200 and an order was being sought for that amount. The court might

also be told that the parent would not pay the voluntary component of $100 because she or he claimed they could not afford it and the school was going to write it off. The court might also be told that the principal did not know whether the parent had paid the fees for the other two children because they were at primary school and that would require another court case if that school decided to take action. The court might at that point ask who had made the decision to take action in this case, and that is an interesting subject in itself. I understand from the regulation that it would be the school council that would recover the debt and, therefore, presumably take the legal proceeding.

The court might find at the end of the day that in addition to the $35 the parent must also pay $48 for the cost of the summons and $200 for legal costs associated with the proceedings. The Minister may say that this is nonsense, that this could not happen, but this is the system that he is asking this Council to approve. Members might like to reflect on what the court might say about this regulation.

South Australia is not the only State that has recognised the need to review the application of school fees. There have been inquiries in New South Wales and the ACT, and the Senate Education and Training Committee has been investigating a reference into the private and commercial funding of Government schools. These inquiries and their findings illustrate that these problems are not confined to South Australia and include many useful references that we can draw upon. It is a pity the Minister has not read these reports.

As previously mentioned, this Council has also established a select committee to look at a broad range of issues associated with school fees, issues such as the adequacy of school operating grants, the inequities between schools and the emerging trend for schools having to impose levies to pay salaries. On top of this is the new dilemma facing schools of how they fund their participation in the Government's DECSTech 2000 program. As I move around the schools, many are telling me that they cannot access the computer purchase program because they cannot afford the costs.

We are facing the new inequity of schools with new technology and schools without new technology, young people who are computer literate and young people who are not, schools that can access the latest curriculum and schools that cannot. It has been estimated within the Minister's own department that the Government's proposals for computers will add up to $80 per year to the school fees of every child. Mr President, I believe members will agree that this regulation is an attack on free education at South Australian public schools. It is a new school tax and has no place in South Australia. Therefore, I urge members to support the disallowance of the regulation.

The Hon. BERNICE PFITZNER secured the adjournment of the debate.

SOCIAL DEVELOPMENT COMMITTEE: HIV/AIDS

The Hon. BERNICE PFITZNER: I move:

That the report of the committee on HIV/AIDS—Hepatitis B Inquiry (Part 11)—the Rights of Infected and Non-infected Persons, be noted.

I wish to give special thanks to our research officer, Ms Marg McColl, because, without her background on health issues, we would have had some difficulty in completing this report as our previous research officer was whisked away to the Statutory Authorities Review Committee. I would also like to give thanks to the secretary of our committee, Ms Robyn Schutte, and to the competent *Hansard* officers who at times experienced some difficulty with the recording of the proceedings as debate was at times very fast and furious.

The first part of this inquiry, the third report of the Social Development Committee on AIDS: Risks Rights and Myths, which was tabled in Parliament in 1993, dealt with the first, second and fifth terms of reference. However, although the focus of this report—Part 11 of the inquiry—deals with the third and fourth terms of reference, there is some overlap with Part 1. This report deals with the rights of the infected and non-infected persons as previously noted, especially in the context of health care, contact sport and schools. At this point I must explain the delay in producing the second part of the report as, aside from losing our research officer, between 1994 and 1996 the committee completed several other inquiries, including family leave provisions for the emergency care of dependents, long term unemployment and the adequacy of income support measures, and this inquiry was already in its final phase when the committee took on the matter.

The committee has also reported on rural poverty in South Australia as well as an inquiry into prostitution. The committee started taking evidence for Part 11 of this HIV/AIDS inquiry only in February 1996. At this time, on advice from the medical profession, the terms of reference were expanded to include hepatitis B infection. As the inquiry progressed, it became obvious that hepatitis C is now an important blood borne communicable disease that should not be ignored. Although hepatitis C is not named in the terms of reference, relevant information relating to this infection, as well as to other communicable diseases, primarily those that are sexually transmitted, were mentioned by witnesses appearing before the committee. These have been included where relevant in the report. During the course of the inquiry the committee heard evidence from a range of people working in the area of HIV/AIDS, many from the health profession as well as educators, lawyers and, importantly, representatives from the South Australian Organisation of People Living with HIV/AIDS. The committee received nine written submissions and heard evidence from 30 individuals and, on behalf of the committee, I would like to thank the witnesses for their interest and willingness to participate in the proceedings of the inquiry.

Few diseases have had such a dramatic global impact as AIDS, which is now regarded as one of the most important public health challenges the world has faced. Australia is one of the few countries in the world which has demonstrated considerable success in containing the spread of the human immuno deficiency virus which causes AIDS. Indeed, in the past few years the declining incidence of this infection has occurred both on an Australia-wide basis and here in South Australia. Our success in containing the HIV epidemic in Australia was acknowledged in the Third National HIV/AIDS Strategy released by the Commonwealth Government in December 1996. The national strategy recommends that in future educational and preventive programs designed to limit the spread of HIV infection should be employed in the context of the broader public health initiatives which take into account related communicable diseases. The most important of these diseases are the other blood borne viruses, in particular, hepatitis B and C, which also pose serious health risks to the Australian population.

Although it is encouraging to note our past success in

relation to HIV/AIDS, the committee agreed that we should not become complacent. Australia is geographically located in a region where many countries are experiencing rapidly growing AIDS epidemics and the effect of this disease should not be underestimated. Even in Australia it still occurs at an unacceptable rate, with a total of 827 new cases of HIV infection diagnosed in 1995 and a total of 45 in South Australia in 1996. As most members of the Council would know, AIDS remains a life threatening condition and there is little hope of a cure or vaccine being developed in the near future. I note that the President of the United States believes that eventually there might be some vaccine by the year 2007—good luck to him.

The HIV virus occurs in blood and other body fluids. In Australia, it is primarily transmitted from person to person through intimate sexual contact or the sharing of HIV contaminated needles and syringes. In South Australia, as in the rest of Australia, the majority of those infected are homosexually active men and they remain a priority for future prevention strategies. Since 1985 all transfusion services in Australia have been screened for HIV and there have been no cases of transfusion acquired HIV since that time.

The committee also heard of the alarming rate of hepatitis C infection being diagnosed in this State, as in the rest of Australia. Currently in Australia it is estimated that at least 100 000 people may carry this virus. However, medical science still has much to learn about hepatitis C, and the high numbers diagnosed in the past few years are almost certainly a reflection of the recent availability of a laboratory test, plus an increased awareness of the disease by both doctors and the community. Nevertheless, it currently constitutes a formidable public health issue for this State. While many infections recently diagnosed were acquired years ago, infection is still spreading. In South Australia 592 individuals tested positive for hepatitis C in the first six months of 1996 and, of those, six were acquired in the previous 12 months. Importantly, about 75 per cent of people testing positive for hepatitis C infection have a history of injecting drug use. Recent studies have also shown that approximately 30 per cent of inmates in South Australian prisons are infected with hepatitis C virus. This is a major concern and one that I will return to later.The hepatitis C virus can cause long-term or chronic hepatitis in a high proportion of those infected and may ultimately result in liver disease and liver cancer. No vaccine is available to protect against this infection.

Hepatitis B infection is another important communicable disease mentioned in evidence presented to the committee. Hepatitis B can be transmitted sexually by sharing needles or syringes contaminated with the virus and, importantly, as with the other infections, it can be transmitted from mother to child before or at birth. In addition, transmission of this disease has occurred between toddler age children. Most infants who contract hepatitis B remain chronically infected, and it is estimated that as many as 5 to 10 per cent of adults infected will also be carriers. These people will not only remain infectious to others but have an increased risk of chronic hepatitis and liver cancer in later life. The incidence of hepatitis B infection is uncertain. A total of 339 new cases were diagnosed in Australia in 1995, and only nine new cases in the first months of 1996 in South Australia. However, as not all people will experience clinical symptoms when infected with hepatitis B, these statistics do not provide a complete indication of the number of people infected in South Australia.

The committee was told that high rates of hepatitis B infection were likely in some Aboriginal communities and some migrant populations from countries where the disease is endemic. There is an obvious need for specifically designed studies to determine the extent of infection in this State. Hepatitis B differs from either HIV or hepatitis C in that there is a vaccine available, and the Social Development Committee supports a recent recommendation by NHMRC, namely, that universal infant immunisation programs be implemented in South Australia as soon as possible. The committee also notes with enthusiasm that in the last Commonwealth budget $15.6 million was allocated for hepatitis B immunisation in schools.

The rights of infected and non-infected persons—particularly in relation to HIV/AIDS, but also to other blood-borne communicable diseases—provided the focus for this report. In relation to the rights of HIV-infected persons, the committee was told by witnesses from the AIDS Council and the South Australian Equal Opportunity Commission that the current legislation has served the State well in terms of preventing discrimination. The South Australian Equal Opportunity Act 1984 prohibits discrimination on the grounds of sex, sexuality, disability, age, marital status or pregnancy in the areas of employment, education and the provision of services.

The committee was told that, in general terms, the Act has provided protection against discrimination for people who are HIV-positive. However, despite the relative success of anti-discrimination legislation in this State, several witnesses expressed concern about the definition of 'impairment' used in the South Australian Act. Although impairment or disability is included as one of the grounds whereby discrimination is prohibited, it would appear that people with HIV infection who have not yet progressed to AIDS and developed symptoms may not be covered by the current definition. The difficulty is that 'impairment' in the Equal Opportunity Act is defined as 'a total or partial loss of any function of the body, the total or partial loss of malfunctioning of any part of the body, or the malformation or disfigurement of any part of the body'. This definition does not cover the presence in the body of a virus.

This problem was raised by Brian Martin QC, when he reviewed the South Australian Equal Opportunity Act. He argued that the current definition of 'impairment' did not cover HIV infection, because the malfunctioning of the body may not occur until a later stage when a medical diagnosis of AIDS had been made. He also noted that South Australia was the only State not to have amended its anti-discrimination legislation to protect the people who are HIV positive. In line with the Martin report, the Social Development Committee has recommended that the Equal Opportunity Act be amended to ensure that the definition of 'impairment' includes those persons who remain asymptomatic but have been diagnosed with an infectious disease such as HIV, hepatitis B or hepatitis C. The wording used should follow the definition contained in the Commonwealth Disability Discrimination Act 1992, namely, 'the presence in the body of organisms causing disease or illness or capable of causing disease or illness'. Initially I had some concern that this definition may be too broad or may include the status of our body all the time, but I am told that this concern has not been identified by the Commonwealth Disability Act since 1992.

In 1993, the Social Development Committee's Part 1 report also made a recommendation to protect the rights of infected individuals. To safeguard the privacy of HIV

positive people, the Health Commission's notification system for this disease was to operate with a name code only: the full name of the patient would not appear on the documentation. This recommendation in the committee's first report was implemented by the South Australian Health Commission soon after its release. When hearing evidence for Part 2 of its inquiry, the committee was concerned to investigate the impact of coded notification on the process of contact tracing. It would appear that the policy has proved successful. It has afforded privacy, protection for the individuals testing positive for HIV infection, but has not provided a hindrance to the process of contact tracing.

As acknowledged by the medical witness from the Sexually Transmitted Disease Branch of the SA Health Commission, it was able to interview 49 of the 50 people newly infected with HIV between January 1992 and June 1996. This medical witness also believed that the policy should remain unchanged, as removing the name code at this stage might deter some people from having a test for HIV, and he believed that the State was currently maintaining a good compliance rate in testing those most at risk.

A major area of concern for the committee related to infection control procedures in the health care setting, with particular reference to HIV and hepatitis B and C. Evidence focused on the potential for infected health care workers to transmit these viruses to their patients, as well as the risk to workers from infected patients. Although there have been no known cases of HIV transmission from health care worker to patient in Australia, in 1993 the first case of patient-to-patient transmission occurred when four women were infected during minor surgical procedures performed on the same day by a Sydney doctor. While conclusive evidence was not established, the most likely cause of the infection was contaminated local anaesthetic. On the other hand, cases of patients being infected with hepatitis B and C are not as rare and several instances have been documented, both in Australia and overseas.

The risk of health care workers acquiring HIV infection in the course of their employment is very small, primarily because the rates of infection for this disease are low in Australia. In relation to other blood-borne viruses the risks are higher, and the average rate of infection after a needlestick injury varies from 2 to 40 per cent for hepatitis B and 2 to 10 per cent for hepatitis C.

Since the advent of AIDS, much attention has been given to developing and implementing infection control strategies for Australian hospitals, medical clinics and health care settings to prevent the spread of infection. Standard precautions are now recommended by the NHMRC which should be adequate to protect against the transmission of HIV, hepatitis B and hepatitis C. Standard precautions include measures such as: washing and drying hands before and after patient contact; the use of protective barriers, which may include gloves, gowns, plastic aprons, masks, shields or goggles; and appropriate handling and disposal of sharps and contaminated waste. Most importantly, standard precautions are recommended for the treatment and care of all patients regardless of their known or perceived infectious status.

The committee heard evidence that suggests that hospitals had widely adopted these measures. However, one remaining area of concern appears to be the frequent reuse of medical devices designed for single use only. This is an Australia-wide problem, and the NHMRC has already conducted research to confirm the practice. The Social Development Committee supports the NHMRC proposal that State and Territory Ministers of Health jointly institute a policy to address this problem as soon as possible. The committee also heard that an infection control accreditation program established as a joint venture between the South Australian Branches of the Australian Medical Association and the Australian Dental Association has been endorsed by a large number of dentists in this State, approximately 60 per cent having complied with this program. However, I regret to say that only 5 per cent of medical practitioners have complied, and several witnesses from the health profession expressed concern with this low participation rate in what, to date, has been a voluntary program of infection control. The committee agreed that this was one of the more important aspects covered in the inquiry as it was fundamental to protecting the rights of uninfected people in South Australia. As a consequence, we have made several recommendations covering both medical and dental practices.

In relation to the medical profession, in particular, the committee has recommended that the Minister for Health implement changes to the Medical Practitioners Act 1983 to ensure that all medical clinics involved in basic procedures participate in an infection control accreditation program. An 'invasive procedure' is defined as any procedure which pierces the skin or mucus membrane or enters a body cavity or organ. This would include most medical practices in South Australia. Only a practice where none of these procedures are performed (for example, those of psychiatrists) should be exempt.

In relation to the practice of dentistry in this State, the committee has made several important recommendations. Several witnesses from the dental profession argued that, although 60 per cent of dental practices have complied with infection control accreditation, there are areas of dentistry not currently covered by these standards. The committee has recommended changes to the Dentists Act 1984 so that all workers involved in dentistry (not only dentists but also dental hygienists, dental therapists, clinical dental technicians and dental laboratory technicians) comply with adequate standards of infection control. Such changes to the Act should ensure that all dental clinics, and importantly all dental laboratories, comply with infection control accreditation in South Australia.

The committee also heard from witnesses representing the Dental Board and the Adelaide Dental Hospital that a number of people are practising illegal dentistry in this State. They believe that there are 20 to 50 unregistered dentists practising unlawfully who would not be covered by standards of infection control. The committee has recommended that the South Australian Health Commission investigate the extent of illegal dentistry in this State and, if necessary, make recommendations to the Minister to ensure that the Dental Board has adequate authority to control this practice.

Another aspect considered by the committee in relation to health care specifically focused on the rights and responsibilities of workers in relation to HIV, hepatitis B and hepatitis C infection. The committee looked again at the vexed problem of pre-operative testing of patients for HIV and other communicable diseases and found that, overwhelmingly, the relevant organisations and professions in this State had established guidelines and procedures that had succeeded in gaining the compliance of patients where necessary.

The South Australian Health Commission guidelines and those established by the Royal Australasian College of Surgeons recommend that medical practitioners always obtain the consent of patients before testing for HIV. Information

provided to the committee suggests that South Australian gynaecologists and obstetricians have not encountered problems in persuading high risk patients to undergo voluntary testing before surgery. However, both sets of guidelines emphasise that not all patients infected with HIV or other blood-borne viruses can be identified by currently available laboratory tests. For example, in the case of HIV, the test is for antibodies produced in the body as a response to the infection. These invariably do not appear in the blood until up to three months after the infection has occurred.

This period is commonly known as the window period. Although the person may have received a negative result, the blood and body fluids of that person could still contain the virus, and they would be infectious to other people. Because of this, all patients must be treated as potentially infectious, and standard precautions for infection control should be rigorously maintained. However, on the other hand, my comment is that mandatory testing may also identify people who are already infected and infectious and giving a positive test.

Some further aspects relating to both the rights and responsibilities of health care workers in relation to HIV, hepatitis B and hepatitis C viruses were considered by the committee. As mentioned previously, there is now one case of patient-to-patient transmission of HIV that occurred in Sydney. Research is increasingly providing evidence, particularly in the United States where patients have been infected with hepatitis B or hepatitis C viruses in a health care setting. The health care workers themselves are obviously at risk of becoming infected, particularly in the case of needle-stick injuries or during a surgical procedure.

In relation to infected health care workers and the protection of patients, the committee was told of guidelines and procedures established by the Health Commission in 1996. An expert advisory panel has been instituted to assist in decision making when a health care worker, doctor, dentist or nurse becomes infected with one of these blood-borne viruses. The panel is convened by the Executive Director of the Public and Environmental Health Service, and it includes: an expert in infection control, medical practitioners who have relevant experience with patients who are infected with the particular virus, and a health care worker from the same profession as the infected worker.

The committee concluded that the professional boards working in conjunction with this expert panel were best equipped to make the appropriate decisions in relation to the future employment of health care workers infected with one of these blood-borne viruses. Evidence suggested that hepatitis B vaccination rates among South Australian health workers were not yet optimal. One witness estimated that they may be as low as 30 to 50 per cent of medical or nursing staff.

The committee has recommended that the Minister for Industrial Affairs ensure that comprehensive programs are undertaken for staff working in situations where they are likely to be exposed to blood or body fluids in the course of their employment, including all hospitals and medical clinics. However, on the advice of other witnesses, the committee has further recommended that the Minister for Industrial Affairs also look at regulations applying to workers with occupationally acquired infection in terms of compensation. In particular, we have asked him to investigate the 'prescribed period' for compensation under the Workers Rehabilitation and Compensation Act—a potential problem, particularly in view of the long latency period associated with HIV infection and other blood-borne viruses.

Another aspect covered by the report relates to education and prevention and the role that South Australia can play in future Australia-wide strategies to combat HIV infection and related communicable disease. As mentioned already, the majority of new HIV infections in South Australia continue to occur amongst homosexually-active men. They remain a high priority for future prevention programs. The committee agreed that the work done by the South Australian AIDS Council and other organisations in preventing the spread of this infection was commendable and that funding of education and prevention programs for homosexually active men should continue. However, the content of such programs should include an integrated approach to blood-borne viruses, especially hepatitis B and C, as well as other sexually transmitted diseases.

Evidence presented to the committee also suggested that there is a potential for an HIV/AIDS epidemic amongst Aboriginal people, so this population is a high priority for funding also. South Australian data shows high rates of sexually transmitted diseases amongst Aborigines, and the national HIV strategy highlighted the link between high rates of this disease and the spread of HIV infection. In South Australia the rates of gonorrhoea and syphilis have declined generally in the past few years, except for Aborigines. In 1995, 75 per cent of cases of gonorrhoea and 90 per cent of syphilis cases occurred in Aboriginal people. The effect that these diseases have on the health of the Aboriginal population demands that prevention and treatment programs deal in an integrated way with STDs as well as HIV infection.

Evidence suggests that the Aboriginal Health Division of the South Australian Health Commission plans to undertake this type of comprehensive approach to sexual health services and the committee agreed that services for the Aboriginal population should be seen as a high priority for future HIV/AIDS funding.

The third national AIDS-HIV strategy emphasises the continuing importance of education and prevention strategies for injecting drug users. The committee heard evidence to suggest that the successful implementation of prevention programs to date may have contributed to a low rate of HIV infection amongst injecting drug users in this State. Since 1990 only eight cases have been reported where injecting drug use was cited as the sole risk behaviour for acquiring HIV.

However, the evidence relating to hepatitis C infection indicates the importance of maintaining programs so that this infection is contained also, particularly as injecting drug use appears to be the major method for transmission of this disease. Once again, therefore, the committee has recommended an integrated response to education and prevention, which includes hepatitis B and C infection as well as HIV/AIDS.

I now come to one of the most contentious areas considered by the committee. This concerns the potential for an epidemic of blood-borne viruses amongst the prison population in this State. Several witnesses emphasise the high risk of transmission and the current high levels of infection already encountered in our prisons. The Director of the Drug and Alcohol Resource Unit at the RAH, while arguing that South Australia has done a particularly good job of preventing the spread of HIV among injecting drug users generally, stated that the one exception remains the prison system. He states:

> HIV infection remains prevalent in the South Australian prison system, although it has declined over the past four or five years. However, within prisons you have all the circumstances for a flash epidemic to occur. We estimate between 40 to 60 per cent of prisoners may have a history in their lifetime of injecting drug use, and our research indicates that 50 per cent of those inject while in prison.

This same witness told the committee that recent research suggests that between 20 and 30 per cent of inmates in South Australian prisons are infected with the hepatitis C virus, which is much more readily transmitted than is HIV when people are sharing needles. The fact that needles are regularly shared in our prisons was confirmed not only by this witness but also by another who works for the Department of Correctional Services by providing education programs to prisoners. The latter maintained:

> There is no way we can control or stop drugs coming into the prison system. This applies not just to South Australia but also to the world.

The committee's deliberations on the problems relating to our prisons were the most difficult and we were unable to reach a unanimous position on future prevention strategies. However, there was major support for a policy that would see the South Australian Department of Correctional Services implementing a similar program to the one adopted by the Department of Correctional Services in New South Wales. The New South Wales programs include the distribution of condoms, the ready availability to both inmates and staff of bleach for cleaning needles and syringes, a methadone maintenance program and a project educating inmates with safe tattooing practices.

The committee discussed the problems related to establishing a needle exchange program in prison, as evidence suggested that such programs had prevented the spread of HIV infection in the general community. However, this proposition was not supported by a majority of the committee on the following grounds: first, there was the potential for needles and syringes to be used as weapons in the prison environment. Indeed, this has occurred with disastrous results for one prison officer in New South Wales who has contracted HIV from a needle-stick injury sustained in a deliberate attack by one of the inmates. In the *Sydney Morning Herald* of 20 January 1997 this attack was cited by the Commissioner of Corrective Services in New South Wales as the major reason for not including needle exchange as part of the State's program for prisoners.

Secondly, the administrative logistics of establishing a needle exchange system that would also prevent the number of needles increasing dramatically in prison appears impossible and a decrease of needles would be the hoped for target by the committee. A recent report from the National Drug and Alcohol Research Centre suggests that, while providing new injecting equipment would be the best solution to the spread of blood-borne viruses in prison, it appears as an unrealistic hope at this stage.

In the same *Sydney Morning Herald* in which the article appears, one of the authors of this report argues:

> A syringe exchange would be ideal, but it would take so much time and energy and we wouldn't get anywhere. We may as well work on things which are possible.

Looking further at the syringe exchange, it was difficult to implement anonymity, a plateau and a decreasing outcome. As I have already mentioned, this aspect of the HIV inquiry proved the most contentious and, although recommendation 17 of the report for a preventive program that includes the distribution of condoms, availability of bleach and the establishment of a methadone program was supported by the majority of the committee, two committee members felt that the recommendation did not go far enough and that it should have included the setting up of the needle exchange program for prison inmates. Hence their dissenting statement has been included in the report. Two other committee members felt that they could not support all the recommendations of recommendation 17, and their dissenting statements are also included in the report.

I will quickly report on this very recent evaluation of the condom trial in three correctional centres in New South Wales. The final report in October 1996 states that over the 26 week period in which the trial has operated a total of 13 527 condoms have been dispensed from vending machines in the three participating correctional centres, and that the average number of condoms dispensed per inmate across the three centres over the whole trial period was 12. This is almost equivalent to one condom packet per prisoner per fortnight. There was no significant difference in the usage rate between centres. However, there was a significant variation in the dispensing rate between the different prison wings. The average number of condoms used in each wing ranged from a low 6.8 per prisoner in one wing to as high as 60 in another wing. The median was 10.6 condoms.

In a questionnaire response from the prisoners, 84 per cent of respondents supported the continued distribution of condoms in gaols, and 26 per cent said they had obtained condoms from a prison vending machine. Some 50 per cent of these inmates reported using the condoms for sex; 33 per cent said they obtained the packets to use the resealable plastic bags for storage; and 17 per cent claimed to use the lubricant for self-masturbation. A total of 76 per cent of the respondents said they thought that sex between inmates occurred in the gaol in which they were housed, and the number admitting to having sex is significantly higher than shown in Australian and international studies on sexual activities of inmates.

It was common for sexually active inmates to have engaged in more than one type of sexual activity. Among these inmates, oral sex was the most common form of sex (75 per cent), followed by anal sex (69 per cent), masturbation (60 per cent), and massaging and rubbing (56 per cent). Some 64 per cent of inmates who have had anal sex since the introduction of condoms reported using a condom every time or on most occasions, whereas 36 per cent of those having anal sex used condoms on some occasions or never. There was a lack of significant opposition from prison officers for the continuing availability of condoms.

The final recommendation was that, given the important public health justification for distributing condoms in gaol and in the light of the success of the trial, the department and the Minister should now consider extending this initiative to all other correctional centres. I understand that this is being considered at this moment.

In relation to the work being done in our schools to prevent the spread of blood-borne communicable diseases, the evidence suggests that extremely good progress had been made since the terms of reference for this inquiry were first developed. The committee agreed that school-based education appeared to be yet another link in the State's successful response to this HIV infection. Although the progress appears to be in train, it now remains to complete the integration of the related diseases, that is, hepatitis B, hepatitis C and other

sexually transmitted diseases, into the health education curriculum.

In relation to management codes of practice, the major occupational health and safety issue is around the appropriate management of blood and other body fluids. The committee heard that all parts of the education sector in South Australia had developed adequate codes in relation to HIV. The recommendation from the committee therefore was that the Department of Education and Children's Services, the South Australian Commission for Catholic Schools and independent Schools Board ensure that the codes of practice also include hepatitis B and hepatitis C.

Finally, the committee also heard evidence suggesting that the sporting community in this State had developed a code of practice which would protect players from blood-borne viruses. One witness felt that, while most sporting bodies had adopted the code, it now remained to implement the rules as strictly as possible as this did not always occur. Nevertheless, he maintained that there had been a great increase in awareness in the sporting community about hepatitis B and hepatitis C as well as HIV.

In conclusion, although the committee heard a great deal of evidence to support the notion that Australia in general, and South Australia in particular, has been successful in preventing a major epidemic of AIDS, we would warn against complacency, and have therefore recommended the continuation of targeted programs to prevent any further spread of this disease.

In addition, the committee concluded in line with the national HIV strategy that this infection should now be placed amongst several other important communicable diseases that also pose a public health risk to South Australians, particularly hepatitis B and hepatitis C. I urge my colleagues to note this excellent report together with its recommendations.

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

STEFANI, Hon. J.F., CENSURE

The Hon. P. NOCELLA: I move:

That the Hon. J.F. Stefani be censured for his involvement in the deliberate falsification and widespread distribution of the report by the Hon. P. Nocella on his study tour encompassing Italy, the former Yugoslav Republic of Macedonia and Greece from 11 August to 21 September 1996 (as required by Rule No. 15 of the Members of Parliament Travel Entitlement Rules) in an attempt to defame the Hon. P. Nocella as a member of this Council.

In moving the motion, I briefly refer to members of Parliament travel entitlement rule No. 15 which requires:

Where a member claims a *per diem* allowance for scheduled overseas travel of any kind or a *per diem* allowance of more than three nights duration in respect of any travel, the member shall prepare and deliver a report to the appropriate Presiding Officer for lodgment with the appropriate Clerk of either House of Parliament within 90 days of the completion of the travel to which the report relates.

On 20 December 1996, I presented the President of the Legislative Council with my report on my study tour encompassing Italy, the former Yugoslav Republic of Macedonia and Greece from 11 August to 21 September 1996. I understand that this report was duly lodged with the Clerk of the Legislative Council for keeping. The Clerk of the Legislative Council maintains a record of interested persons who have viewed the reports, and I understand that there was only one application to view my report and that on that occasion two people viewed my report.

In order to undertake my duties as a member of Parliament, I am therefore required to submit a report on certain travel undertaken by me. I seek leave to table my report as presented to the President of the Legislative Council and another version of the report which has been widely circulated in the Greek community.

Leave granted.

The Hon. P. NOCELLA: Mr Acting President, you will see that the second report which has been tabled is an altered version of my initial report. My study tour report is an official parliamentary document and it has been falsified and circulated in the public domain. I believe that my report has been deliberately altered and widely circulated with the intent to defame me as a member of the Legislative Council.

One of the main objectives of my study tour was to visit both Greece and the former Yugoslav Republic of Macedonia to learn first-hand the current state of affairs between the two countries and any likely future developments. Since the former Yugoslav Republic of Macedonia became independent in September 1991 there have been tensions between it and Greece over the use of certain national symbols, some articles of the former Yugoslav Republic of Macedonia's Constitution and the nomenclature. These tensions culminated in Greece establishing a blockade of their common border and this action precipitated a very difficult situation given that the former Yugoslav Republic of Macedonia is almost totally dependent on the Greek port of Thessaloniki as well as on road connection for the bulk of its foreign trade.

In my previous capacity as Chairman and CEO of the Multicultural and Ethnic Affairs Commission I had direct experience of these tensions and their relevance to the two communities here in South Australia. I have since maintained a strong interest in the area of multicultural and ethnic affairs—even after becoming a member of the Legislative Council—and for this reason I included both Greece and the former Yugoslav Republic of Macedonia in the itinerary of my study tour so that I could gain first-hand knowledge of the relationship between the two countries and bring back fresh information which would hopefully assist in diffusing local tensions.

While I was there I was pleased to learn that the two countries were making considerable progress in restoring the normal relations that they had enjoyed for the previous nearly 50 years when the former Yugoslav Republic of Macedonia was still part of the Yugoslav Federation. Most of the more controversial issues had been resolved. The use of the disputed symbols had ceased, constitutional matters had been addressed and resolved, the blockade had been lifted and diplomatic envoys had been exchanged and were in place, with trade and cultural exchanges flowing freely in both directions.

The remaining issues (which include the nomenclature) are being addressed in New York where a joint group sponsored by the United Nations holds regular meetings under the chairmanship of Mr Cyrus Vance. I was able to see that sister-city arrangements had been established across the border. Only a few weeks ago the famous Greek composer, Mikos Theodorakis, held a friendship concert in Skopje which attracted hundreds of thousands of enthusiastic fans.

It is against this positive and encouraging background that the Hon. Julian Stefani deliberately attempted to generate conflict and inter-ethnic division in our State by distorting and transforming my report to serve his own base purposes—

a report on an initiative which had been motivated solely by the genuine desire to contribute to peaceful community relations. The fact that the Hon. Julian Stefani is Parliamentary Secretary to the Minister for Multicultural and Ethnic Affairs, and part of a Government which has stated that it is committed to a harmonious, inclusive and fair society should constitute ample reason for very strong concern on the part of the Premier, since he is often represented by this Parliamentary Secretary at various ethnic functions.

So, having obtained a copy of my official study tour report, the Hon. Julian Stefani then proceeded to significantly alter it by whiting-out all reference to Greece or any other destination in my itinerary, presumably to indicate that the sole purpose of my tour was to visit the former Yugoslav Republic of Macedonia, and to thereby align myself with only one side of the argument. He then further tampered with the document by removing some parts of the original to replace them with extraneous information obtained from newspaper articles. The result of this cynical exercise was a total travesty of the original report which he had rearranged and redesigned with the clear and deliberate intention of defaming me in the Greek community here, and to generate animosity towards me by his act of cheap political opportunism.

During February and March of this year he proceeded to distribute this forgery to as many members of the Greek community as he could possibly find, culminating at the Glendi Festival at the end of March when he handed out copies to representatives of Greek clubs and associations. I understand that some of the recipients were the Pan Macedonian Association of South Australia, the Panarcadian Association of South Australia, the Pan Peloponnesian Federation of South Australia, the Messinian Association of South Australia, the Halkidikeon Society of South Australia and the Glendi Greek Festival organisers (the Glendi Festival is an umbrella organisation which covers many different organisations within the Greek community).

All these people genuinely believed that they were receiving copies of my report, whereas all they were getting was a forgery aimed at distorting both the purpose and the outcome of this venture while fuelling inter-ethnic dissension. On becoming a member of the Legislative Council 18 months ago, I understood that my fellow members were honourable people bound by a long tradition of fair play and decency.

Members interjecting:

The ACTING PRESIDENT (Hon. T. Crothers): Order! This is a very serious matter. I would ask members on both sides of the Chamber not to interject when any of the speakers are on their feet.

The Hon. T.G. Roberts interjecting:

The ACTING PRESIDENT: And that includes you, Mr Terry Roberts.

The Hon. Anne Levy interjecting:

The ACTING PRESIDENT: Ms Levy.

The Hon. P. NOCELLA: I found it difficult to reconcile the behaviour of the Hon. Julian Stefani with these principles. I also find it very difficult—in fact, incomprehensible—to understand how someone charged with the responsibility of assisting the Premier and Minister for Multicultural and Ethnic Affairs in dealings with our diverse ethnic communities could go to such extremes in order to generate ill-feeling, suspicion and unease in these communities when his brief would surely suggest—

The Hon. T.G. Cameron interjecting:

The ACTING PRESIDENT: The Hon. Mr Cameron, I again ask you to desist from interjecting.

The Hon. P. NOCELLA: —that he channel all his misspent energy into generating peace and harmony in our community. Sadly, this is by no means the first incident of this member's ill-will and mischief. Today in the *Advertiser*, in an article on page 5, I read that the Hon. Julian Stefani admitted that he had edited the report and he said that he did it because he was asked to do so. If anybody wanted a copy of my report they could have asked me or the Clerk of the Legislative Council and they would have recieved the real report rather than this doctored, altered version. I also read that the honourable member has been saying that the Leader of the Labor Party, the Opposition Leader, Mr Rann, met with an angry delegation of Greek officials who voiced their displeasure.

The Hon. J.F. Stefani: I didn't say that.

The ACTING PRESIDENT: Order! The Hon. Mr Stefani will cease interjecting. He is listed to speak and he will get his opportunity.

The Hon. P. NOCELLA: I am quoting from the article, from the information described therein. If that was the case I think the Hon. Julian Stefani would soon find out that at the meeting which took place if any displeasure was shown it was shown towards him when the people attending the meeting realised that they had been duped, that they had been taken for a ride and given the wrong document. At the end of the article we understand that the Hon. Mr Stefani distributed this altered version to 'save on photocopying'. That will need quite some explaining because the front cover of the report, after being whited-out abundantly, is still a one page photocopy: it does not save anything at all.

The Hon. Anne Levy interjecting:

The ACTING PRESIDENT: Order!

The Hon. P. NOCELLA: It gives me no pleasure at all to report these facts, especially since the honourable member concerned belongs to the same national group as I, but I cannot let this incident go unreported. All members of this Council should feel threatened by this member who brings disrepute upon us all by his cheap subversive dishonesty. I am personally appalled, dismayed and deeply offended. Firstly, by the contemptuous way in which the honourable member treated a document of this Council, which, indeed, could also constitute a contempt of this Council, and, secondly by the use he made of the doctored version of my report—all done in a blatant attempt to defame me as a member of this Council. I now invite this Council to censure the honourable member in the strongest possible terms.

The Hon. R.R. ROBERTS: In seconding the motion, I note that the honourable member opposite made reference to identify me. I am happy to be identified with this motion. However, it is with sadness that I find we must move in this direction but it is not unexpected, because I have commented on the activities of this parliamentary secretary who was appointed on a motion of my former colleague, the Hon. Mario Feleppa.

All members would recall that almost every Minister of every Government has a backbench committee, and we have also had parliamentary secretaries. Never before has a parliamentary secretary been given entree to so many facilities and been given so much responsibility yet abused them so badly. When we first came into this House, the Opposition asked a series of questions because we had heard that the Hon. Julian Stefani was quite recalcitrant when he found that he was to be left out of the ministry. He obviously felt that he ought to be in there and he got second prize: the

then Premier, the Hon. Dean Brown, appointed him parliamentary secretary. We asked some questions about the facilities that were to be available for the Hon. Julian Stefani. We asked a question about whether he would be provided with office space. We were fudged; we were told that there was no office space, but I am advised by a reliable source that the Hon. Dean Brown requested the Multicultural and Ethnic Affairs Commission to make office space available to the Hon. Julian Stefani. That office space was made available and it was luxurious in comparison with the office space provided to workers at the Multicultural and Ethnic Affairs Commission. I understand that that office has not been used, but it was the clear intention that it would used.

This motion, I believe, has been inevitable. I have previously commented on the actions of this member in relation to his involvement with the Indochinese Women's Association of South Australia. Statutory declarations purported belligerent and threatening behaviour by the parliamentary secretary on a number of occasions, not the one occasion. When we raised those matters, members opposite, including two Ministers, refused to believe that this parliamentary secretary was capable of this type of activity. Statutory declarations were ignored by the then Premier (Hon. Dean Brown), the Leader of the Government in this place (Hon. Mr Lucas), and the Minister for Transport (Hon. Diana Laidlaw). In fact, evidence was produced that stated that members of the executive committee of the Indochinese Women's Association said that Mr Stefani was always helpful to them and, indeed, was Christian. The forgiveness of sin is a Christian act.

As a result of the ridicule of those honest people in the Indochinese Women's Association, who made complaints and asked for apologies, I asked on their behalf for apologies from both the Premier and the Hon. Julian Stefani. I asked that the Hon. Julian Stefani desist from intimidating them. Mr Stefani is on the record as declining the offer to do the decent thing by those people.

The Hon. A.J. REDFORD: I rise on a point of order. I notice that in the last three or four minutes the honourable member has covered topics outside what would seem to be pertinent to this motion. I am not sure how those topics are relevant, but I ask you to rule accordingly.

The PRESIDENT: I have read the motion and I think that the point of order is valid. I will rule as such. I ask the honourable member to confine his remarks to the motion at hand.

The Hon. ANNE LEVY: I rise on a point of order. Could you tell us under which standing order you make that ruling?

The PRESIDENT: Relevance.

The Hon. ANNE LEVY: Which standing order?

The PRESIDENT: Whether it is relevant or not to the motion at hand.

The Hon. ANNE LEVY: What number is it?

The PRESIDENT: Try 186.

The Hon. A.J. Redford interjecting:

The Hon. R.R. ROBERTS: You ought to know; you have been here long enough to know that you have to be quiet, too.

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Thank you, Mr President. This motion provides the point of relevance which you are so desperately seeking. This motion is about credibility and whether the credibility of this member deserves censure. I am leading into the credibility argument, but I am happy to move on. We can come to this piece of political mischief which I have to say, in my view, since I have been a member of Parliament, is the greatest piece of political bastardry that I have ever seen. It brings disgrace—

The PRESIDENT: Order! I do not think that is very parliamentary.

The Hon. R.R. ROBERTS: 'Bastard' has been used extensively by the Democrats in this House on a number of occasions and it has never been pulled up. Bastardry is used in this way not to mean anything derogatory other than as a term to describe an uncharacteristic act of this place.

The PRESIDENT: I think it would be better for the honourable member to use more astute language than that.

The Hon. R.R. ROBERTS: Unless it is unparliamentary, that is my choice. This is the worst piece of chicanery on a political basis I have ever seen. It has all the contents of political cowardice, trickery and intrigue. Today in the *Advertiser* there is reference to the Hon. Julian Stefani and his involvement. The article refers to the second copy which has been bastardised in a most unparliamentary way and I quote:

> The second copy, bearing Mr Stefani's name and fax number across the top of each sheet, has reference to Italy and Greece as well as the tour dates blanked out. Sections of the report documenting meetings with Slav-Macedonian officials in which potentially inflammatory comments about Greece have been made are underlined.

He was not happy to have just deletions: he had to emphasise remarks in the document to create an impression of something that did not actually exist. The article continues:

> Mr Stefani admitted he had edited the report but said he sent it to members of the Greek community because they requested only the Slav-Macedonian component.

I, for one, do not believe that statement and that indicates to me that here is someone who has been engaged in political mischief and is trying to blame someone else. As a result, this bastardised form of the Hon. Paolo Nocella's comprehensive and detailed report was circulated to Greek officials. It has been said by way of interjection that the Hon. Julian Stefani did not give it to all and sundry: that he only gave it to specific people, but the article continues:

> As a result, an angry delegation of Greek officials met with the Opposition Leader, Mr Rann, and also voiced their displeasure at Mr Nocella, he said. He said Mr Stefani, who is parliamentary secretary to the Premier and Minister for Ethnic Affairs, Mr Olsen, 'should know better'.

That comment was made by my colleague, the Hon. Paolo Nocella. The article continues:

> Mr Stefani said he was approached by the Greek community for the edited report and claimed he also distributed two full versions of the report to Greek officials.

I would like to know when the two full reports were sent to the Greek officials. Was it after the ructions occurred or beforehand? The Hon. Julian Stefani was observed at the Glendi Festival but he was not giving copies to people who requested them: he was observed at the Glendi Festival with an armful, saying, 'Here, take one of these and tell me what you think.' He was distributing malicious and deliberately falsified information to create division and hatred in the multicultural and ethnic communities in South Australia. That is the sort of activity we are asked to judge today. We can compare that with the honourable actions of the Hon. Paolo Nocella over many years. Why would a member of the Legislative Council stoop so low as to perform these acts of bastardry? One has to go back a long way. In this case we

have to believe whether the Hon. Paolo Nocella or the Hon. Julian Stefani is the credible person.

The Hon. Paolo Nocella has had a distinguished and honourable career throughout his life, so much so that he was chosen as a Protector of the Pope in Rome. He has been vetted right the way through and found to be a man of high credibility and distinction, and he served well. He then had a distinguished career in business in South Australia and spent six years as President of the Lazio Association in South Australia. As President of the association he became involved with multicultural and ethnic affairs, where he served with great distinction and great community interest. On all occasions his one aim has been to draw those communities closer together and create harmony within multicultural South Australia and the ethnic Australian community. The Hon. Mr Nocella has provided guidance and support, so much so that the previous Labor Government was moved to appoint the Hon. Paolo Nocella to the Multicultural and Ethnic Affairs Commission as its CEO and Chairman, simply because of his record of integrity and his desire to close the ranks and heal the rifts, some going back hundreds of years between certain sections of our multicultural society.

The Hon. Mr Nocella came to that commission at a time when there were latent tensions and disputes between sectional groups and I am happy to report when we were in Government that it became very clear, as the report came back to us—and I spoke with many members of the multicultural and ethnic affairs community who were absolutely delighted by the change in attitude of the commission—in the highest terms about the ability of the Hon. Paolo Nocella to create unity, to bring communities together and to put aside the divisions. It was with great distinction that he served and with great credibility that he organised his tour to Greece, Macedonia and Italy on behalf of my Leader, the Hon. Mike Rann. The Hon. Paolo Nocella was subjected to an extraordinary scrutiny of his parliamentary travel, a situation which is not new or unique to him, to this Parliament or previous members of it.

I believe that the Hon. Paolo Nocella in an act of openness and honesty was probably too open and honest for the press in this State and I am sure, also, that they were misled by people with mischievous intent from the other side of this Chamber and in another place. He made it very clear—

The Hon. A.J. REDFORD: Mr President, I rise on a point of order. The honourable member has reflected on every member of this side of the Chamber with that last comment and I ask him to withdraw it.

The Hon. R.R. ROBERTS: I apologise to those who are not guilty.

The PRESIDENT: Accepted.

The Hon. A.J. REDFORD: Mr President, I do not accept that as an apology.

The Hon. R.R. Roberts: You're not the President—sit down you little grub.

The Hon. A.J. REDFORD: It is conditional—

The PRESIDENT: Order!

The Hon. A.J. REDFORD: —and I ask the honourable member to withdraw the remark he just made. If he could just keep his mouth shut whilst someone else has the floor, it would make it a lot easier.

Members interjecting:

The PRESIDENT: Order! I will determine the procedure. It is not helpful to the Parliament or its public perception—

Members interjecting:

The PRESIDENT: Order! It is not helpful to the public perception when members abuse one another across the Chamber. That is not parliamentary procedure. I ask the Hon. Ron Roberts to withdraw and apologise. However, I do not think taking points of order helps either if it is—

An honourable member: Frivolous!

The PRESIDENT: If the honourable member wants a spell, I can help him. I will determine what I am going to say. I do not think members' interjections and so on in a case like this, where it is a delicate issue, are helpful. I ask members to restrain their speech so that we can have a reasonable debate and get the facts. I ask the Hon. Ron Roberts to withdraw and apologise.

The Hon. R.R. ROBERTS: Mr President, I always respect your orders and I withdraw and apologise. The Hon. Paolo Nocella was vilified because of his honesty and openness about his intentions to go to those European countries. Why would the Opposition not take advantage of the obvious qualities and experience of such a distinguished member of the Australian community and the Italian community with his business experience and knowledge of the geographics of that region? What happened on that trip? It was a most successful trip and each day was itemised showing what happened, in a report in the finest of terms and open for everyone to see. One would have thought that a report of that nature could not have caused too much harm. However, as the Hon. Paolo Nocella alluded to in his contribution, as required he did lodge his report with the Clerk of the Council and a register is kept of who actually looks at that document. This comes back to credibility and honesty concerning how the Hon. Julian Stefani received the original copy of this parliamentary report. How did he receive it? The only person who registered as having looked at that document was a Mr Toso. I now refer to a *Sunday Mail* contribution of 29 December 1996, as follows:

> . . . Lazio officials had met with the chamber when they accompanied Mr Brown's visit to Italy this year. A letter of understanding was signed last month when the officials visited Adelaide. He said that the Lazio Government was not investing the full amount in South Australia, with only a few thousand dollars being used to promote the region. 'It is wrong to say the money will be invested in the Italian Carnavale,' Mr Toso said. It is embarrassing if Mr Nocella's comments were to reach Europe.

This is about the Hon. Paolo Nocella, President of the Lazio Association for the last six years, who had gone to see his colleagues in that region and have discussions. The article then states:

> Liberal MLC Mr Julian Stefani yesterday confirmed Mr Toso's comments, releasing a report on the row.
>
> 'It is quite absurd to suggest that the Lazio region will be spending $250 000 in SA,' he said.

We then come to another contribution, where this trail leads us, to the *Advertiser* and the article headed 'Chamber backs off row with Nocella.' It states:

> The Italian Chamber of Commerce in Adelaide has backed away from a clash with Labor MP [MLC it should have read] Mr Paolo Nocella. The dispute centred on a $250 000 investment in the State, which Mr Nocella claimed he had secured during his taxpayer-funded trip to Italy in September. At the weekend, the chamber's secretary-general, Mr Silvano Toso, reportedly denied Mr Nocella played any part in enticing the Lazio regional government to invest in Adelaide's Carnevale '97. 'It is embarrassing. . . '
>
> But the president of the chamber, Mr Paolo Aromataris, said yesterday Mr Toso had spoken without authority and had been drawn into a 'political stunt'.

And this is the continuation of that same stunt. It continues:

'We are not in the game of politics—we are here to serve our members, which are all respected people', he said. Mr Toso had no authority on speak on behalf of the chamber without consulting me.'

This is Mr Toso, who was invited, or allowed to resign from the Chamber of Commerce, and no longer even resides in South Australia. This is also, I am advised, the same Mr Toso who is registered as having had a look at the Hon. Paolo Nocella's report. The only other person who has had his hands on this document is the Hon. Julian Stefani. So, this leads us to ask: did the Hon. Julian Stefani illegally copy this document? How did he come by this? Not only did he come by it by nefarious means but he has also changed it significantly and distributed it deliberately and maliciously to cause mischief and deceive members of the Greek and Macedonian communities in South Australia, thereby reinforcing racial hatreds in South Australia and divisions in the Multicultural and Ethnic Affairs Commission. Compare that with the honourable actions of the Hon. Paolo Nocella who, when he was with the Multicultural and Ethnic Affairs Commission, brought people together. Here we have the Parliamentary Secretary for Multicultural and Ethnic Affairs promoting division within the community.

I believe that this Government has no alternative. In the past I have called for apologies and for inquiries into the activities of this member. I call again for a full inquiry by the Premier into these very serious matters. What we have here is disrespect for the parliamentary system and disrespect for the intention and the objectives of the laws of this State in respect to defamation and the rights of individuals not to have documents or information spread about them maliciously and with an intention to cause defamation and harm to their reputations.

There are ample sections in the Wrongs Act—and I refer to Part 1 (section 6), which talks about 'privilege of newspaper, radio or television reports of proceedings of public meetings and of certain bodies'. They are covered by privilege if a fair and accurate report published by the newspaper radio or television is given. It also talks about select committees or documents of either House of Parliament. Paragraph 7 states:

. . . any notice or report issued by it or him [this being a parliamentary office] for the information of the public, shall be privileged unless it is proved that the report or publication was published or made maliciously.

I submit that this document was absolutely malicious and, having established clearly that it was gained by trickery, it has been distributed and altered in such a way as to not represent what it was supposed to do.

There are a number of precedents relating to defamation, about people who want to selectively quote documents out of context, and we all know about those. However, what we have here is not selective quoting: it is deliberate deletions, other pieces of material added, underlinings and undue communications added to this document. It was then sent out from the office of the Hon. Julian Stefani. Today we hear that this was because people asked for it. I submit to this Council that if there had not been grubby electronic fingerprints on that document it would have been anonymous and nobody would have known about it. But the member, in his viciousness against and envy of the credibility of the Hon. Paolo Nocella, forgot about the fact that technology was going to trap him, and we saw this document turn up.

It was interesting when the Greek community arrived to talk to my colleague, the Hon. Mike Rann, and said that they wanted to talk about Paolo Nocella's report. He was able to say, 'Which one do you want to look at? Do you want to have a look at the real one—the credible, honest, open report of the Hon. Paolo Nocella—or do you want to look at the bastardised version that has been maliciously and deliberately spread around the town?'

This has been done to try and drag down the tall poppies—the tall poppy syndrome is not confined to Anglo-Australians. Obviously, this member has been in competition over many years with my good colleague, the Hon. Paolo Nocella, in the Multicultural and Ethnic Affairs Commission; they have had many clashes. Unfortunately for the Hon. Julian Stefani, he has always managed to run second. I submit that the maliciousness which he has displayed by distributing this scurrilous material is a consequence of that tall poppy syndrome.

The Premier has no alternative but to undertake certain actions, because I believe that this is a defamation. As members of this Council—especially those members of the legal profession opposite—would know, members of Parliament enjoy absolute immunity from civil and criminal liability for anything said in the course of parliamentary proceedings. This immunity does not extend, however, to the re-publication of material outside the Council.

The Hon. A.J. Redford: Why doesn't he sue him?

The Hon. R.R. ROBERTS: That will come. But we will not be contracting you for the defence—and I bet you he will not, either. As John G. Fleming highlights in his definitive work on tort law *The Law of Torts*:

Qualified privilege attaches itself to those reports where the report is fair and accurate.

Quite clearly, this is nowhere near accurate. The information has been maliciously and deliberately circulated. It continues:

However, that privilege is lost when there is either: (among other circumstances)

(a) an abuse of privilege;

I believe, as outlined in the way that the honourable member has obtained this information and distributed it, there is an abuse of privilege. Fleming continues:

(b) if the statement was published for an improper purpose—

I would suspect that an improper purpose would include causing division and racial hatred in South Australia and defaming an honourable member of the public and an honourable member of this House—

i.e. that the publication must not have been malicious [this has certainly been malicious]; or

(c) where there has been excessive communication.

It is clear to members on this side of the House that the re-editing of Paolo Nocella's study report was an abuse of privilege. Here it is impossible to argue that this is of sufficient social importance to defeat the countervailing claim to protection of reputation. Further, the report was malicious in that it was used deliberately to undermine the reputation of the Hon. Paolo Nocella.

These activities are about a disgraceful situation where we have had two reports and an unsuccessful attempt, I hope, to try to defame the Hon. Paolo Nocella and to draw undue attention again to the honourable activities, constitutional and legal, of the Hon. Paolo Nocella in his duty as a politician on his study trip to Greece and Macedonia, where it was suggested in the press and by other people behind their hands that there was something untoward involved.

Let me tell you, Sir, of the success of the Hon. Paolo Nocella. This is actually stated in the report, and I suppose that it is to his credit, in one sense, that the Hon. Julian

Stefani did not take it out. It is an order for 2 500 to 3 000 tonnes per month of lead concentrate. Whilst the Hon. Julian Stefani did not take out that particular paper, he felt disposed to put a note in his own handwriting that Pasminco BHAS was not interested. For the edification of the Council, I will cite some figures which show—

Members interjecting:

The Hon. R.R. ROBERTS: Well, 2 500 to 3 000 tonnes per month of lead concentrate of the quality ordered, cash on delivery, would be worth $1.8 million to South Australia per month. The Hon. Dean Brown and his entourage of thousands who went to Italy and Greece came back with what Paddy shot at—absolutely nothing! The Hon. Paolo Nocella, because of his business acumen, was able to gain the confidence of these people.

I have a particular interest in this matter because Pasminco BHAS operates in Port Pirie, where I live. I was able to help the Hon. Paolo Nocella to make contacts. What the Hon. Julian Stefani does not realise is that there is not just one lead producer in Australia but that there are ongoing negotiations for this contract which, I repeat, will add $1.8 million per month to South Australia's income. No Liberal on the other side of this Council or in the other House can claim that sort of an opportunity or direct order. The Hon. Paolo Nocella has diligently followed this up to the extent that he has received further correspondence, which states—

The Hon. A.J. Redford interjecting:

The Hon. R.R. ROBERTS: Lynn Arnold was on this side. He wasn't on your side. The letter states:

> On behalf of 'MD' International Co. once again I am referring to you in order to ask you for any news in connection with my latest request. I thank you very much for any help regarding this matter. You can also refer us to anybody that can pursue the matter further, taking into consideration your busy time schedule. At the same time, I want to send my warmest regards to you and your family, and to ask for any news from you.

I assure the Council that the Hon. Paolo Nocella is following up this matter. He has not jumped up, waved his arms in the air and said, 'What a good boy am I.' If it had been the Hon. Julian Stefani or any member opposite, we would never have heard the end of it. I suggest to those members who want to criticise the proper activities of the Hon. Paolo Nocella that they ought to work out how many times he could have gone to Italy on $1.8 million.

In the public press, the accused has virtually admitted his guilt—that he has been involved in these things. I do not want to go over past sins, but I need to say that since this Parliamentary Secretary entered the realm of multicultural and ethnic affairs he has caused division and disharmony. He has perpetuated that disharmony and he has politicised multicultural and ethnic affairs.

My colleague in another place Mr Michael Atkinson raised questions about this today. It has come to our attention that, now, when briefing notes are issued to Ministers and others and they mention members of the Multicultural and Ethnic Affairs Commission, they are designated as either 'right, left, centre, Labor, Liberal', or whatever. Under the Hon. Paolo Nocella there was no politicisation, and I cite a specific example.

The Hon. A.J. REDFORD: I rise on a point of order, Mr President. I wonder whether the honourable member could bring some light to bear on how this is possibly relevant to the motion before us.

The PRESIDENT: The debate has been allowed to roam further than I would have desired. I ask the honourable member to confine his remarks to the motion. However, there really is no point of order.

The Hon. R.R. ROBERTS: I understand, Mr President, that there is no point of order. We are talking about a very important point, namely, the credibility of the Hon. Paolo Nocella, which has been compromised by these actions. I believe it would be the right of any citizen of South Australia to expect parliamentary representation to provide some sort of protection or explanation. If young Mr Maigret over here needs to take a point of order—

The Hon. A.J. REDFORD: I rise on a further point of order. With due respect, Mr President, you were critical of me earlier for raising what was perhaps an unnecessary point of order. I have now been criticised for not raising a point of order on something which is totally irrelevant. You made your ruling, and the honourable member then commented on it and proceeded to refer to me in a totally unparliamentary manner. The debate ought to be brought under control and confined to relevant matters, and the honourable member ought to speak to this place in a proper parliamentary manner. I ask him to withdraw his comment.

The Hon. R.R. ROBERTS: I withdraw the remark, Mr President.

The PRESIDENT: Order! I do not want members to get personal. I asked members earlier not to take this matter too personally. I know that this is a delicate issue and that all members are passionate about it. I ask those members who make a speech to keep their remarks reasonable and not to get carried away with emotion, and I also ask those who have been offended perhaps to ignore those remarks. I will draw the debate to a close if the honourable member's remarks continue not to be relevant to the motion at hand.

The Hon. R.R. ROBERTS: May I explain my motion, Mr President?

The PRESIDENT: Yes.

The Hon. R.R. ROBERTS: I repeat that I am trying to enable a South Australian citizen to have his reputation protected by the Parliament. So, I believe that I am doing my duty. If I stray too far, I will accept your ruling, Mr President, but I need to explain. In South Australia, we have seen politicisation and divisions forming uncharacteristically in multicultural and ethnic affairs. It comes back to the essence of this motion, that is, the credibility and the honesty of the Hon. Julian Stefani.

I have particular concerns about the direction of multicultural and ethnic affairs in this State in the light of these divisions. People are being put onto the Multicultural and Ethnic Affairs Commission because of their political affiliations, despite their great credibility and their record in the community, akin to that of the Hon. Paolo Nocella.

Obviously, my colleagues opposite do not like the lash. They are being disruptive because they have been caught out. In support of this motion, I must say that we have seen the evidence. Because I firmly believe in justice, I have no hesitation in declaring the Hon. Julian Stefani guilty as charged. What we really need—

Members interjecting:

The Hon. R.R. ROBERTS: He is guilty as charged.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: We have an admission on the front page.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: We have a confession in the newspaper, Mr President.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: They don't like it, Mr President. They don't like the lash. The Hon. Mr Stefani is guilty as charged.

An honourable member interjecting:

The PRESIDENT: Order! I ask the honourable member not to use that language.

The Hon. R.R. ROBERTS: What needs to happen to right this obvious wrong? This is the Party opposite which, during the last election, had policies in respect of Ministers and public officers.

The Hon. Diana Laidlaw interjecting:

The Hon. R.R. ROBERTS: The Hon. Diana Laidlaw seizes on the opportunity to interject. It is obvious that it is an opportune time because she has referred to such matters in contributions in which she has protected the Hon. Julian Stefani against the affidavits of other people in the community. The policy states:

> A Liberal Government will revitalise the institution of Parliament, ensuring Parliament is strengthened in holding Executive Government to account. We have urged this principle in Opposition and will carry it on. The Government will ensure the highest standards of ethical conduct by Ministers and all public officials in all they do, including the collection of taxes and other things.

We have appointed the Hon. Julian Stefani to a public office. This Government is committed to upholding those standards. The Government has no alternative but to, first, insist that the Hon. Julian Stefani apologise to the Hon. Paolo Nocella for this gross act of unparliamentary bastardry. He ought to be made to apologise to the Legislative Council for bringing it into disrepute. He ought also to be required to distribute a copy of that apology to every person to whom the honourable member sent a copy of this bastardised version of the Hon. Paolo Nocella's report.

It would not be too strong an action for the new Premier to sack the Hon. Julian Stefani from the position of honour which has been bestowed upon him and which he has clearly abused. In the next few weeks we will make investigations into whether a privileges committee ought to be instituted in this place. The Premier should immediately set up an inquiry into these matters and during the period that a formal inquiry is being undertaken it would behove the Hon. Julian Stefani, if he has any respect for parliamentary convention—

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: On a point of order, it is the Westminster convention in English-speaking Parliaments that, where a censure motion is being discussed, irrespective of Standing Orders it be heard in silence. I ask you, Mr President, to uphold the convention.

The PRESIDENT: That is the Crothers' convention. It does not belong to this Parliament, as far as I am aware. Both sides have been interjecting, so it is six of one and half a dozen of the other.

The Hon. R.R. ROBERTS: If the Hon. Julian Stefani holds dear any of the conventions, pride or privileges that belong to this Parliament, he should resign as parliamentary secretary or at least stand down pending an inquiry. In reference to the severity of this case, if the Liberal Party had any respect for multiculturalism in South Australia, I suggest that it drop the Hon. Julian Stefani down the ticket and promote the Hon. Bernice Pfitzner, because she has at least indicated some willingness to work with people in South Australia and maintain some credibility with multicultural and ethnic communities in this State. I second the motion with some regret.

The Hon. J.F. STEFANI: Today we have heard the Opposition go on for some hours. Time will not permit me today to cover all the things I want to say. However, I will refer to a few things. I will refer to the telephone calls that the Hon. Paolo Nocella made as the Chairman of the commission to one Giorgio Imperato of Spot in Italy. A good number of phone calls were made because evidence of those phone calls was supplied to me when I was in Opposition.

Members interjecting:

The Hon. J.F. STEFANI: I will touch on the subjects that will lead up to the motion.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.F. STEFANI: Time will not permit me to refer to the Italian Chamber of Commerce and Industry's report, audited by Arthur Andersen, which says, 'Doubtful debts relating to reimbursement of expenditure incurred, claimed against the former administration under Paolo Nocella'. Time will not permit me to do that today.

The Hon. R.R. ROBERTS: Mr President, what does this have to do with the motion?

The PRESIDENT: There is no point of order.

Members interjecting:

The PRESIDENT: Order! I am enjoying this as much as you are, but I am not as noisy as you lot, and I would prefer that you—

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order, the Hon. Ron Roberts! You were given a very fair go, and I ask that you hold your tongue for a second. You have all been given a fair go. There is no point in being foolish, trying to take points of order every couple of minutes. I have let the debate range far and wide. The Hon. Ron Roberts indicated that he wanted to determine the credibility of the Hon. Paolo Nocella and discredit the Hon. Julian Stefani. The boot is now on the other foot, and I suggest that you all, including the Minister, listen to what is being said and we will be much the wiser.

The Hon. J.F. STEFANI: Time will not permit me to refer to documents which I have relating to when the Hon. Paolo Nocella, the then Chairman of the Ethnic Affairs Commission in November 1993, in the lead-up to the election—

Members interjecting:

The Hon. A.J. REDFORD: On a point of order, since the last discussion the Hons Terry Cameron and Ron Roberts have not stopped talking. The Hon. Paolo Nocella was heard in complete silence. The Hon. Ron Roberts was also heard in silence, other than when points of order were raised, and he transgressed and points of order relating to relevance were taken. I ask that the same courtesy apply and, if not, I ask that this place be adjourned until members opposite settle down.

Members interjecting:

The PRESIDENT: Order! I ask that members calm it a little bit, that all of you get out your Standing Orders and read Standing Order 181. Please obey it.

The Hon. J.F. STEFANI: Time will not permit me to refer to a cheque dated 6 June 1991, cashed by the former President of the chamber.

The Hon. R.R. ROBERTS: I had called a point of order. This man is indulging in smear tactics, and it is has nothing to do—

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order, the Hon. Terry Cameron! If the honourable member wants the floor he must stand on his feet and I will recognise him if he wishes to speak. I suggest he read Standing Order 181. Does the honourable member know what it means? If he does not, he can study it during the break.

The Hon. R.R. ROBERTS: I do not rise often on a point of order: this is only the third time in the history of this Parliament. I do not squeal, but I was constrained to refer to events in respect of the motion. The Hon. Julian Stefani is embarking on smear tactics and referring to events of 1991. This motion is about a trip in 1996 and the events in relation thereto. There is no relevance to 1991.

Members interjecting:

The PRESIDENT: Order! I am not aware of the debate of 1991 and whether or not it is relevant. I have to rule that there is no point of order because I cannot understand it.

The Hon. J.F. STEFANI: I will not have time to refer to a letter of demand dated 16 February 1994 sent to Mr Paolo Nocella, the then Chairman of the commission, nor to Giorgio Imperato of Spot Promotion of Italy, demanding the repayment of $10 497. Time will not permit me tonight to cover—

Members interjecting:

The Hon. J.F. STEFANI:—a whole range of issues that are contained in the files, but I will complete my remarks next week. Needless to say I would like to refer to a few things that have been raised today. Let me say first that it is not the first time—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.F. STEFANI: It is not the first time the Opposition has attacked me for its own reasons, nor is it the first time the Opposition has used language which is unparliamentary. I refer particularly to a debate on 1 August 1996 when the Hon. Paolo Nocella chose to use these words:

> In conclusion, after reading the wordings of this media release—

and he was referring to the then Premier—

> I am reminded of those words that said that 'this text is like words of love from the lips of a harlot'.

This is the gentleman who comes in here—

The Hon. P. NOCELLA: A point of order, Mr President. The point is that this language is already contained in *Hansard* of 1978.

The PRESIDENT: Order! The honourable member has used it to quote. There is no point of order.

The Hon. J.F. STEFANI: The whole of this debacle was brought about by the headline (which we all saw), 'Taxpayer funded honeymoon trip'. It was fairly clear there was a lot of heat on the Opposition concerning this trip when they claimed they were going to have a private audience with the Pope. What happened to the report?

Members interjecting:

The PRESIDENT: Order, the Hon. Ron Roberts!

The Hon. J.F. STEFANI: What happened to the report claiming the private audience with the Pope? What happened to the report that said there were 17 days devoted to working and 39 days away for, obviously, a honeymoon? It also referred to the fact—about which I am sure the Leader of the Opposition was greatly embarrassed—that the Hon. Paolo Nocella gave the media people who visited his home a little card that said, 'Looking forward to our honeymoon in Rome.'

After all this background, we have a great deal of attention placed on this trip. The newspaper article further stated:

> The Nocellas will then travel to Skopje, the capital of the former Yugoslavia Republic of Macedonia, and then to Thessaloniki in Greece. Mr Nocella will study tensions between the nations and how those tensions are transferred to South Australia.

This is what the Hon. Paolo Nocella was going to do. He was going to investigate and report on the tensions. It might be opportune for me to refer to the *Advertiser* of 26 December which had the report and justification for the trip.

Needless to say, I am advised from very reliable sources that the Hon. Paolo Nocella hosted a dinner to which an *Advertiser* journalist was invited so he could sell his story. The reality was that the article that ensued stated that the South Australian community was going to benefit by $250 000 that would be contributed to the Italian Carnevale by the Lazio region. It made reference to the report which includes a request from Macedonia for the supply of lead concentrate. Further, the article quotes the Pasminco spokesman who said:

> The company's books were filled with long term customers and it was not interested in what it considered to be a relatively small contract of about $1.8 million a month.

They are some references I wish to make to the report. We also know that the Hon. Paolo Nocella invited the Italian Chamber of Commerce to obtain a copy of the report. In so doing, he has given permission to access the report, copy it and do what they wish. It is also true to say that, within the terms of the references made to me, when the media came to me yesterday, I honestly told the media that I released a copy of the report which was relevant to this Slav Macedonian issue and the Slav Macedonian part of the report. I also issued two full copies of the report at the same time.

This afternoon, we heard the Opposition say that I had said that the Leader of the Opposition received a delegation and was angry. Well, unless the *Advertiser* journalist who wrote this report has got it wrong, the quote in the *Advertiser* says this (and this is the Hon. Paolo Nocella speaking):

> The intention was to create further tensions and ethnic hatred between two communities, he said. As a result, an angry delegation of Greek officials met the Opposition Leader, Mr Rann, and also voiced their displeasure at Mr Nocella, he said.

I take it that the 'he said' means the Hon. Paolo Nocella, not me. Unless the *Advertiser* journalist got it upside down, today we have heard the accusation that I have referred to.

I can understand why the Hon. Mike Rann, the Leader of the Opposition, would be very angry. I can really understand that because he has been a great supporter of the Greek community on the Macedonian issue. He has gone out so far on a limb on that issue that he received a letter from the Macedonian Orthodox community, the Slav Macedonians, and this letter was published in the Greek News on 2 November 1995, so it is of recent times. We have the Slav Macedonian community, which the Hon. Paolo Nocella claims he has gone to serve, writing to his Leader saying:

> Your publicly expressed views on this subject matter are, quite apart from the fact that they are based upon several falsehoods, biased, insensitive, discriminatory, and thus, given their political context, corrupt.

This is what the Slav-Macedonian community wrote to the Leader of the Opposition—his Leader—just a few months ago and now the Hon. Paolo Nocella is saying that he is

trying to be a peacemaker between these people. I think it is appropriate that I continue my remarks after dinner, and I seek leave to conclude my remarks later.

Leave granted.

[Sitting suspended from 6.11 to 7.45 p.m.]

The Hon. J.F. STEFANI: As I was saying before the dinner break, there is ample evidence about the fact that the Slav-Macedonian community in South Australia was obviously upset with the Leader of the Opposition because they chose to write to him in very terse terms. Again I quote from the letter written to the Leader of the Opposition, Mr Mike Rann, which was published in the Greek newspaper on 2 November 1995:

> However, it is seemingly without precedent in the current history of this grubby episode for a Labor Leader such as yourself, the alternate Premier of this State, to fall to such outrageous depths of political misconduct by mimicking and thus further perpetuating what is nothing more than the standard Greek Government diatribe and propaganda on the so-called Macedonian issue. Shame on you, Mr Rann, and most of the Labor voting Macedonian community of this State hold you deservedly in contempt.

It is clear that there has been a difference of view on this very important subject. It is equally clear that I have taken the view in the past that the Greek community hold dear to them, a view which I share with the Leader of the Opposition, the former Premier (Hon. Dean Brown), the current Premier, and the former Labor Premier (Hon. Lynn Arnold who visited Greece) that Macedonia is Greek. Simply put, that is not inflammatory, that is not condoning or inciting racial violence or hatred. It is purely taking a position of conscience where those of us who have visited the place understand how deeply it refers to the cultural roots of the Greek community and the Greek people I am privileged to represent and, of course, in whose esteem I am held very high.

It is equally true to say that members of the Slav-Macedonian community, whom I have had the pleasure of meeting on a number of occasions, have made it abundantly clear that Liberal members of Parliament are not particularly welcome in their premises. I experienced that situation in my early life as a parliamentarian when, in 1989, I represented the then Leader of the Opposition, Hon. John Olsen. I did not take objection to that but, nonetheless, attended their functions and endeavoured to receive a delegation when they were making representation to me about my position on the Macedonian issue.

I now turn to the report. The report itself obviously covers three sections: the Italian section, the former Yugoslav Republic of Macedonia and Greece. It is interesting to note that in the Italian section, the honourable member chose to refer to the Australian Embassy in Rome. He also chose to denigrate the South Australian Government for using uneducated infantlike translators, which he referred to as having 'a seriously limited vocabulary (as is often the practice of the current Government)'. The report continues:

> This practice serves not only to make whoever is using the person's 'voice' sound like the aforementioned uneducated child once their voice comes through his or her interpretation, but it gives the impression that we [the South Australian community] are childlike and naive in the extreme.

I do not think that it is a credible report, which quoted the South Australian community as childlike and naive, denigrating the efforts of those who accompanied the Premier on the trip to Italy. This statement is contained in the honourable member's report. It is a denigration of not only the Government but also the community.

I now refer to the section of the report where the honourable member has claimed a meeting on 2 September with the Ambassador and a senior officer, Mr Gordon Miller. The honourable member states:

> The Ambassador was also at pains to point out that severe cuts in funding to the Australian Embassy in Rome (as announced by the Howard Government) are rendering it impossible to sustain the level of service appropriate to the complex and mature relationship which has until now existed between the two countries. The trade, welfare, health and cultural agreements which are in place at present require continuous servicing, not to mention the relentless stream of Italo-Australians reliant on the Embassy for assistance and cooperation in various undertakings and bureaucratic business.
>
> There is absolutely no doubt whatsoever that the downgrading of the Australian Embassy in Rome will be interpreted by the Italo-Australian community as an insult. It is a well-known fact that business in Italy is conducted predominantly on the basis of personal contacts. . .
>
> With the Howard Government cuts, and the subsequent retrenchment of experienced officers, such contacts will become increasingly difficult to maintain with the inevitable result being the downgrading of the entire bilateral relationship built up so painstakingly over many years.

I did refer a substantial part of the report to the Foreign Affairs office in Canberra and the Minister, and of course that report was accompanied by the press release motivated for political reasons by the Leader of the Opposition, Mr Rann, who said at the time:

> Mr Rann said that the Howard Government had slashed funding to the Australian Embassy in Rome. The Liberals have insulted Italy and the Italo-Australian community by downgrading Australia's representation in Italy.

This is the Leader of the Opposition in a press release, and he is further reported as saying:

> 'The Howard Government has made a big cut to the embassy staff numbers. It will not be able to do its job properly. Mr Downer has axed positions for consular, diplomatic, administration and trade staff in Italy.'

The Hon. Mr Nocella went on to say:

> 'It makes no sense. Italy is one of Australia's biggest trading partners. It is our second biggest trading partner in Europe, bigger than Germany. It is ludicrous to downgrade our embassy in Rome. We cannot afford to be second rate. This move will damage trade and will mean less service given to Italo-Australians visiting Italy. The Howard Government has also axed the cultural attache position in Italy. This is disappointing after all the efforts to promote cultural exchanges,' Mr Nocella said.

The comments that I received back in the response of the Ambassador, Lance Joseph, were also supported by Mr Gordon Miller, Counsellor of the embassy in Rome, who was also present at the meeting. He confirmed that no such comments were made from Mr Joseph. Clearly, the inference in the report was that Mr Joseph, the Ambassador, with Mr Miller, made comments which were reported by the Hon. Paolo Nocella in his report.

I now refer to a section of the report which deals with the Hon. Paolo Nocella's meeting in 1992 in his former role as Chairman of the South Australian Multicultural and Ethnic Affairs Commission. This meeting took place with a Mr Keramitchievski, who visited Adelaide. Mr Keramitchievski was the President of the Macedonian Immigrants Association. It is interesting that in the report prepared by the Hon. Mr Nocella he quoted the same gentleman as saying:

> Excessive Greek intolerance and discrimination had created an insupportable situation for these people, whose human rights were abused regularly.

I put it to you, Mr President, that the incitement and reported hatred in that statement by the Hon. Paolo Nocella would do very little—

Members interjecting:

The Hon. J.F. STEFANI: The author of the report would do very little in his efforts to bring the community together by quoting incitable and very inflammatory comments. Whether they were said or not, I would say that such reporting would certainly incite a great deal of anxiety and distress in the Greek community. I am sure that the Leader of the Opposition would agree with me on that point because we are both very much closer to the situation than the Hon. Paolo Nocella would ever be. He also went on with a meeting with Mr Zhuta who was quoted as saying:

> He identified the Greek community in Australia as responsible for organised protest and disturbance of the peaceful activities of the Macedonians in Australia.

I do not think the temperance of the honourable member is shown by writing such a comment and I put it strongly that this would incite a great deal of anxiety, pressure and disturbance and in fact anger. He also quotes the same gentleman as saying:

> He. . . blamed them for forcing the Australian Government to impose the prefix 'Slav Macedonians', which he says is completely unacceptable.

I would like to take the Council back to that decision and to the undertaking that the former Australian Prime Minister, Mr Keating, gave to the Greek community, which was simply that he would not recognise the name 'Macedonian' until such time as it was accepted at the international level. It is true to say that the Greek community became very agitated because that undertaking was broken and the Federal Government had no option but to then heighten the disquiet created by the Prime Minister through the prefix on the non-Greek community as the Slav Macedonians.

The Hon. SANDRA KANCK: Mr President, I rise on a point of order and ask you to rule that what is being said here is not relevant to the debate. I am the member having to make the decision, using balance of power, on this matter probably next week. I have listened for 20 minutes since we got back from the dinner break and I listened to it before the dinner break and I still have not been able to work out how it relates to deliberate falsification and widespread distribution of the report by the Hon. Paolo Nocella. There is no relevance.

The PRESIDENT: I do not think the honourable member realises that what the Hon. Mr Stefani is reading from is what is in dispute, and I would have thought that that was relevant.

Members interjecting:

The PRESIDENT: Order! From my observation the honourable member has been quoting from the Hon. Paolo Nocella's written report to the Parliament and, as far as I am concerned, that is what the motion is about. Therefore, I rule that there is no point of order.

The Hon. J.F. STEFANI: Thank you, Mr President. In the section of the report that deals with the Slav Macedonians, clearly the honourable member was referring to the inflammatory comments made to him by various officials in the former Yugoslav of Macedonia and the honourable member is saying in his motion that, because I circulated just that section of the report, I incited the Greek community. The reality is that the Greek community was present in Greece when he was visiting Greece with the Opposition Leader. It was not interested in the Greek or Italian report because it was there in Greece and it was certainly not interested in the Italian report. It was interested only in the section of the report that concerned the Macedonian issue. It was prepared only to see that report because it wanted to know why on earth—

Members interjecting:

The PRESIDENT: Order! *Hansard* is trying to take a record of this. I hope that honourable members on both sides will allow the speaker to continue.

The Hon. J.F. STEFANI: The Greek community was interested only in the report of the Slav-Macedonian side because it was keen to know the assessment and the comments from a Labor member of Parliament who, by exception, was one of the few who visited the former Yugoslavia-Macedonia, and the Leader of the Opposition was obviously very strongly supporting the Greek community. So, it was keen to know what new discovery, or what new information—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.F. STEFANI: It was waiting with some keenness to know—

Members interjecting:

The PRESIDENT: Order, the Hon. Legh Davis and the Hon. Terry Cameron!

The Hon. J.F. STEFANI: It was keen to know exactly what was said in that report and obviously was going to make judgments on it.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.F. STEFANI: It was going to make judgments—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order, the Hon. Legh Davis!

The Hon. J.F. STEFANI: —in relation to the Labor Party and the position that a Labor member took. I want to make a few comments in relation to the meeting of the Italia Australia Chamber of Commerce. It is important to note that this organisation has no official status with the Italian Government and certainly has no monetary support from the Government, yet the honourable member again has castigated the South Australian delegation, led by Premier Dean Brown, who neglected to contact them when they were in Rome. It is fair to say that the former Premier was obviously well aware that this organisation has a long history and connection with the Labor Party. It goes back to 1989, when this organisation was promoted by Giorgio Imperato of Spot when they took the expo rights at the Adelaide International Expo at no charge, and when there was correspondence to the Hon. Terry Groom and to subsequent Labor people, including Dr Paolo Nocella, the Hon. Mario Feleppa and the Hon. Lynn Arnold.

The honourable member spoke about dividing the community. There is nothing more divisive than the honourable member's vision for the day after 1999. He produced a map of Italy, dividing the north from the south. He produced a map of Italy which says that there is a concentration camp in the north. He produced a map of Italy that calls for an anti-southern submarine surveillance. This is certainly a very divisive document. I am prepared at some stage to speak further on this and expose the reasons—I guess there were reasons; the honourable member may have had reasons—for it. Maybe he can explain, or I can obtain the explanation from other members who received it.

I wish to draw attention to the apology which the former member, the Hon. Mario Feleppa, gave to the Greek community, and which was printed in the Greek newspaper.

Obviously he regretted the message, which caused a great deal of anxiety to the Greek community.

The Hon. P. NOCELLA: I rise on a point of order. Documents have been attributed to me which I know nothing about. I would like those documents to be tabled so at least I can understand what we are talking about.

The PRESIDENT: The honourable member is allowed to move in that direction.

The Hon. J.F. STEFANI: The honourable member will have an opportunity in due course to receive the information when I seek leave to conclude and continue next week—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.F. STEFANI: —and expose the whole of—

Members interjecting:

The PRESIDENT: Order! The Hon. Julian Stefani.

The Hon. J.F. STEFANI: As I was saying, the former member, in the hasty preparation of comments made by the honourable member on a particular occasion, obviously understood the importance of the Greek Macedonian issue. He chose to publicly apologise for his insensitivity to the Greek community, and I suggest that the report tendered by the Hon. Paolo Nocella contains a great deal of insensitivity towards the Greek community. This is why it was very interested in the report. It was obviously a damning report that incited a great deal of distress and anger. It certainly ran counter to all the good principles of writing a balanced report—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.F. STEFANI: —without the incitement of words. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

STATUTORY AUTHORITIES REVIEW COMMITTEE: STATUTORY AUTHORITIES BOARDS

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

That the report of the committee on boards of statutory authorities: Recruitment, Gender Composition, Remuneration and Performance, be noted.

The Statutory Authorities Review Committee has now been in existence for three years and this is our thirteenth report. It builds on an earlier voluminous report tabled by the committee dealing with a survey of statutory authorities in South Australia—indeed, the first comprehensive survey of statutory authorities in this State. In that first report, which was tabled nine months ago, we argued that there was a lack of register of statutory authorities, although there had been debate on this matter for at least a decade. Certainly, I had argued very strongly for a register of statutory authorities. That has yet to occur in South Australia, and this is a matter of concern and surprise to the committee, given the technology that is now available to Government.

Secondly, we argued that statutory authorities should be timely in their reporting—hat there was great inconsistency and variability in the timeliness and quality of reporting. We also pointed out in that first report that there were definitional differences for statutory authorities as against statutory bodies; that there was an argument to broaden the terms of reference for the Statutory Authorities Review Committee so that we could have the power to examine not only statutory authorities but statutory bodies as well. That survey showed that some statutory authorities were not required to report to Parliament, and altogether it showed that this was an area that needed attention by Government.

This second report on the subject deals with recruitment, gender composition, remuneration and performance. Certainly in the private sector as well as in the public sector there has been much public comment about the importance of corporate governance. The excesses of the 1980s, which saw boards of major public listed companies run as if they were the private domain of the entrepreneurs in charge—notably, the Christopher Skases, the Laurie Connells, the Alan Bonds—and which we saw in our own State, with notable examples such as Bennett and Fisher, the State Bank and SGIC, have led to a universal concern to try to redress those excesses by establishing some ethics, by recognising the importance of ethics, of standards and of corporate governance procedures in both the private and the public sectors.

So, this report touched on some of these corporate governance matters, and this voluminous report of 96 pages I am pleased to say again contained unanimous findings from the three Liberal members and the two Labor members who serve on this committee. I would like to pay a tribute not only to the committee members but, in particular, to Miss Anna McNicol, who has served as Secretary to the committee, and also Mr Andrew Collins, as Research Officer, for their diligence and professionalism in assisting the committee in the preparation of what I consider to be a very important document for Government.

I am pleased to say that this report, together with our earlier report of last year on the survey of statutory authorities, was given due consideration at a recent one day seminar on corporate governance which was held at the Adelaide Convention Centre under the auspices of the Australian Institute of Company Directors and the South Australian superannuation funds. That seminar, which was held just a few weeks ago, was attended by over 150 delegates from statutory authorities, both large and small, in South Australia, and had notable speakers, including Helen Lynch, who is one of the pre-eminent women in corporate Australia at the present time, as Chair of the South Australian superannuation funds on the board of Coles Myer, OPSM and Southcorp, together with the Chief Executive of WorkCover in one of the Canadian provinces, as well as other speakers.

As a member of the panel, I certainly found that it was a worthwhile and rewarding experience for all the people present. The occasion, I should mention, was made more notable by the fact that the Attorney-General opened the conference.

The committee believed that in appointing persons to boards of statutory authorities, in particular larger authorities, it was important to use a range of devices, including executive search in some cases, and also to look at lists which have been established by a range of authorities such as the Office for the Status of Women and the Multicultural and Ethnic Affairs Commission. Premiers and Ministers also have lists of eligible people.

The committee also recommended that Ministers should develop guidelines for the composition of each board of the statutory authorities under their control and that these guidelines should be reviewed each time there is a board vacancy. The committee recommended that the Cabinet Office publication *Government Boards and Committees: Guidelines for Agencies and Directors* should be reviewed and a new edition released which provides Ministers with a helpful checklist of processes for the recruitment and selection of Government board members. For example, it is

important that Ministers be given adequate notice of vacancies occurring on boards to ensure that boards are not left vacant for a long period of time.

The Hon. T.G. Roberts: Give their Party membership a run.

The Hon. L.H. DAVIS: As is his wont, the Hon. Terry Roberts unwisely interjects: 'Give their Party membership a run.' That was the go in the Labor Party. The SGIC, which is one of those commercial authorities that the Hon. Carolyn Pickles embraces as if it were a warm log fire on a winter's night, lost $81 million in one year (1990-91), whilst at the same time it was approving an increase in the salary of its Chief Executive Officer (Mr Denis Gerschwitz) from $180 000 to $235 000. Also at that same time, when the Hon. Carolyn Pickles was a moving force within the Labor Party, it left vacant for 12 months a position on that board which had a maximum of only five members.

If I can just thump the Opposition again with these facts, SGIC lost about $800 million of taxpayers' money. In my view, one of the reasons for this—if I can make this point again strongly but relevantly in this Chamber—is that the board lacked the professionalism, detachment and ability to comprehend the decisions that were being made by SGIC. If one can cite that particular example yet again, just a few months ago—

The Hon. T.G. Roberts interjecting:

The Hon. L.H. DAVIS: Well, you've asked for it and you'll get it. Just a few months ago, the South Australian Asset Management Corporation finally sold one of the bigger albatrosses created by the Labor Government—that is, 333 Collins Street—for $241 million. In the process, however, the Government has written off $500 million in interest charges, holding costs and loss on purchase price.

The Hon. Carolyn Pickles interjecting:

The Hon. L.H. DAVIS: Certainly, it is very relevant to the report.

The Hon. Carolyn Pickles: It is not contained in the report.

The Hon. L.H. DAVIS: We do not make particular reference to it, but it is absolutely on all fours with the point that we are making of having the appropriate skills on the board to make the proper decisions, because in that case the SGIC board recommended to the then Treasurer (Hon. John Bannon) that it should take out a put option on SGIC, for which it got $10 million cash, and that exposed SGIC to a liability, if that put option were triggered, to take up the ownership of 333 Collins Street, which was equivalent in value to 35 per cent of SGIC's investible funds.

At that time, the Insurance and Superannuation Commission of Australia, as a regulation for the private sector insurance companies, stipulated that no more than 5 per cent of investible funds could be invested in any one asset. I submit even to the Hon. Terry Roberts, who admittedly has the attention span of a humming bird—

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: The honourable member does not have to get personal. That remark is totally unnecessary. He is not doing a bad job without that sort of comment. I ask the honourable member to withdraw the personal implications.

The Hon. L.H. DAVIS: I thought that the Hon. Terry Roberts might be flattered to be called a humming bird. They are rather cute, if not small, birds.

The PRESIDENT: Order! I ask the honourable member to return to the subject.

The Hon. L.H. DAVIS: The point that I make simply and succinctly is that in that case a professional director sitting on that board would have had standards of behaviour for an insurance company and set down parameters under which it should properly operate, and that was flagrantly abused and ignored when it committed SGIC to 35 per cent of its investible funds if that put option was triggered.

It was triggered, the State lost $800 million and Max Beck and the Westpac Bank, as the potential mortgagee, danced and had champagne all night as they celebrated SGIC taking this on. I saw only last week in the BRW that Max Beck is back in the top 250 richest people in Australia with a lazy $200 million net worth or thereabouts. To the Hon. Caroline Pickles it is a nuisance and an annoyance to have it raised publicly, but that is the role of the Statutory Authorities Committee. The sadness is that we did not have such a committee in existence in the 1980s because such abuses and loss of money may have at least been curtailed if not totally limited.

The committee also recommended that the Government continue its strategy to increase representation of women on Government boards. There is tripartisan support by all major Parties that there is a need to increase women's representation. It was pleasing to see that in South Australia women's representation has lifted quite significantly to over 30 per cent. It is one of the highest figures in the nation. Given that the Government has a commitment to increase women's representation on boards to 50 per cent by the year 2000, it is quite clear that there is a long way to go. We recommended that the Office for the Status of Women should coordinate regular executive search initiatives to identify women potentially suitable for appointment to South Australian Government boards, paying particular attention to the search criteria used.

To shed my presiding member's cap for a while, this Government has paid particular attention to the importance of attracting quality women to important boards in South Australia. The appointment of Helen Lynch is an obvious and outstanding example of a very fine appointment. There are a lot of new faces to corporate boards in the public sector, both men and women, which is an encouraging sign. The other point made quite forcibly by Liberal and Labor members in the previous report is that it is important to pass by the notion of jobs for the boys and girls, that this State cannot afford to give political favours to appoint people on the basis of their Party affiliation rather than their ability to make a worthwhile contribution to the running of the board of that statutory authority.

The committee recommended that, where there were selection panels for board members of South Australian statutory authorities, it was important to include at least one woman. On the subject of remuneration there has been some controversy. It was unfortunate that the *Advertiser* on page 3 a couple of weeks ago led with an extraordinary headline that quite distorted the comments and recommendation of the Statutory Authorities Review Committee with respect to remuneration levels for major commercial statutory authorities. Given that the State Bank, SGIC, the Pipelines Authority of South Australia and other commercial authorities have been sold off, there are not a large number of major commercial statutory authorities still in existence in South Australia. Certainly one can point to the Electricity Trust, which has been segregated into three sections. There is the Ports Authority, the South Australian Superannuation Fund and a range of other major authorities where there is some

competition with the private sector and some ability to compare board remuneration levels with private sector equivalents.

The committee realised that there is always an element of public service involved in anyone accepting a board position in the public sector. But it also recommended that the Government should recognise that, particularly at the higher end in the commercial statutory authorities such as the Electricity Trust where it is dealing in a national market, where competitive forces are at work through Hilmer and the competition policy, we need to attract the very best people. Some of the appropriate people for board appointments to such authorities may be interstate. For example, the Chairman of the Electricity Trust is Mr Mike Janes, the former secretary of BHP—a much respected figure in Melbourne commercial circles.

It is proper to realise that some of the fees paid by successive Governments have not been adequate. The fees are established by one authority in South Australia and are adjusted regularly. I am pleased to say that there has been some upward adjustment, modest though it may be, in many of those board fees. We recommend that the State Government should consider whether board members of these major commercial statutory authorities should receive levels of remuneration related to those received by directors of private sector corporations with comparable financial profiles.

One of the other much debated issues in the area of corporate governance has been the level of disclosure required by companies or statutory authorities. The committee recognised that the worldwide trend was for full disclosure. We believed unanimously that full details of the level of remuneration received by each member of their boards should be included in the financial statements contained in the annual reports. In some cases that remuneration may consist of a fee in addition to a retention allowance or other fees. Those component parts of any remuneration should be disclosed in the financial statement.

Finally, the committee examined board performance. We recognised that not only was it important for board performance as a whole to be regularly reviewed by statutory authorities but that there should be appropriate mechanisms to review the performance of individual board members. We recommended that Ministers should ensure that all statutory authorities in their portfolios should conduct induction and training sessions for new board members, having regard to their background and experience, make sure that board members have sufficient information to enable them to properly perform their duties as board members and also to encourage and assist board members to participate in ongoing education and training in relation to their duties and responsibilities as board members and in the operating environment and functions of the statutory authorities on whose boards they serve.

As a postscript perhaps I should make the observation that not only is the Government necessarily paying increasing attention to this important matter of corporate governance with respect to directors of statutory authorities, but it is important also to recognise that the Government should ensure that Ministers of the Crown are fully cognisant of their responsibilities, their relationship with statutory authorities, and of the role they play as Ministers as distinct from perhaps in some cases acting as if they were chief executives. They should be familiar with the requirements of corporate governance, and the changing standards and expectations of the community in this respect, and should recognise also that matters such as recruitment, gender composition, remuneration and board performance are matters deserving of the highest attention.

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

AUSTRALIAN NATIONAL

The Hon. CAROLINE SCHAEFER: I move:

That in the interests of long term rail jobs and a strong viable future for rail in South Australia, this Council notes support for the sale of Australian National from—

Rail 2000
Trades & Labour Council, Port Augusta
Corporation of the City of Port Augusta
Spencer Regions Development Association
Northern Regional Development Board
SA Farmers Federation, Australian Barley Board, Australian Wheat Board
Labor Senator Bob Collins
Australian National.

I move this motion as a result of the extreme concern I feel after reading the article in yesterday's *Advertiser* entitled, 'Job concerns as Labor vows to halt AN sale.' This article confirms what we had feared, that in spite of overwhelming contra evidence, and in spite of the best efforts and goodwill of the employees—those whose jobs are on the line—Federal Labor will work to block the sale of AN in the Senate.

Earlier this year I spoke on the 13 years of neglect which led to the terminal state in which AN finds itself. It is worth repeating some of the figures I quoted previously. In the last 13 years, 7 000 jobs have been lost, mostly from South Australia. Since 1974 the AN work force in Port Augusta has reduced from 2 157 to just 618 last year, and I believe there have been further redundancies since. Since 1982, 1 372 kilometres of rail line have been closed, mostly to be torn up for scrap.

The rail structure in this State has been decimated to such an extent that taxpayers are now subsidising the remaining employees by $30 000 each per annum. Yet the people who perpetuated this travesty on our hard working railway workers are now saying that they will block the private sale in order to try to retain jobs. What a pity they had not cared about the jobs of those workers in preceding years. What a pity their sympathy does not extend to the actual rail labour force.

In the face of overwhelming evidence, one has to ask: whose jobs is the Federal Labor Party concerned about? No-one in this State would wish to see our rail economy further eroded, which is why the $2 billion reform package offered by the Federal Government was greeted with some degree of relief by AN employees and the population generally of Port Augusta. At least the redundancy payments were an opportunity for people to get on with their lives and hopefully to find some other form of work. There is a possibility that, if AN is sold to a private bidder, these people who are undoubtedly experts in their field would be re-employed in their former jobs, but there is no possibility that AN, which is currently losing $10 million per month, can do anything but moulder and die under its current debt structure.

In his second reading speech on 14 May, Minister John Sharp commented:

Government rail authorities have, in many cases over the years, largely operated as anomalies. They have often been subjected to political interference and have not been placed on a fully commercial

footing. Under these circumstances pricing, operating and investment practices tend to be unresponsive and flexible.

It is recognised by anyone who has followed the fortunes of AN that Sharp's words are indeed correct and that the future of AN was doomed at the inception of National Rail in spite of the best efforts and efficiencies of AN workers in places such as Islington and Port Augusta. They were left holding the unpalatable and unprofitable end of the towel while National Rail picked up all the profit making sections of the industry. Sharp concluded in his second reading speech:

> The future of rail in Australia lies with using our current system much more efficiently and effectively through encouraging the participation of the private sector, introducing competition and providing a greater customer focus. It is possible for the rail industry to operate profitably, and this will require substantial programs of cost reduction and capital investment by the private sector, accompanied by improvements in service quality. It is these efficiencies that will give us a viable long-term rail industry in Australia.

Many people with a long history of supporting union movements will cringe at the thought of private intervention in our rail system, but all who have a modicum of commonsense can see that this is now our only choice. The litany of mistakes made by former State and Federal Labor Governments is now a matter of tragic history.

It is worthwhile remembering that in 1991 the Bannon Labor Government chose not to participate in a shareholding in the board of National Rail. This effectively left South Australia outside the negotiating table from then on. In September 1995, then Federal Minister Lawrie Brereton allowed National Rail to contract the supply and maintenance of 80 new locomotives to New South Wales and Western Australia. These and other major contracts meant that South Australia not only had no say but the die was cast. Some 1 400 rail maintenance jobs had been created outside South Australia.

The Hon. Diana Laidlaw: And we already had a skilled work force here.

The Hon. CAROLINE SCHAEFER: Indeed. Yet in October 1995, Brereton appeared in Port Augusta to publicly declare his support for the work force. On 24 January 1996 he said—and I might add, out of interest, that this was leading up to an election:

> I was extremely impressed with the tremendous spirit of the workers when I visited AN's Islington and Port Augusta workshops in October. I indicated my continued strong support for this highly skilled work force.

During that visit the workers raised two crucial issues: first and foremost, they needed more work. Incredibly, six days later, Brereton announced the interstate contract for the supply of another 40 locomotives, totalling 120, all produced outside this State.

The Hon. Diana Laidlaw: And all produced for NR.

The Hon. CAROLINE SCHAEFER: Yes. That is ample evidence in my view that both State and Commonwealth Governments of the day either did not understand the business strategies that they had introduced were going to kill our rail work force, or they simply did not care. Yet this same Federal Labor Party now claims to want to block the sale which is the only hope for these workers to retain their jobs.

My opinion of this tragedy is well documented. However, for the sake of the record, it is important that this House notes that my views coincide with many of the witnesses who gave evidence to the Senate committee on the Brew report and on the continuing role of the Commonwealth in the Australian rail industry. I am well aware that many of my colleagues opposite privately support my views on what must happen, and I would like to note that the former Labor Transport Minister, Senator Collins, is quoted in the press as having said, 'AN was doomed the day NR was formed, but the Government had no choice because some States refused to become equity partners in the new system under the AN umbrella,' and we all know that South Australia fell squarely into that category. Some other quotes from Senator Collins (and these were quotes from the Senate inquiry) were:

> When AN was established in the 1970s it was done with the intention that the Commonwealth would own and control all of the rail systems in Australia. I would have to say from a policy perspective that AN's purpose was doomed from that point. It was not the national rail system it was set up to be, and in that were really the seeds of what then happened.
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> . . . We hoped that it could have been done in a far more reasonable and supportive fashion than it finally was.

They are not particularly strong words from an opponent but I think they are particularly strong words from a former Minister for Transport.

My motion included noting support for what I have said from many of the people involved in this industry and, with the indulgence of the Council, I intend to read what these people said in evidence to the Senate committee. I begin with the quote from Mr Jack Smorgon, Chairman of Australian National (and these are, of necessity, quotes in part of what these people said), as follows:

> Essentially AN has been subsidising the operation of National Rail. . . The continuing lack of cooperation which the Commission received from the Managing Director led me to meet with the previous Minister [Laurie Brereton] in December 1995 to point out the deficiencies of the then Managing Director and the need to solve this problem. I was told by the Minister he agreed but that he wanted me to wait until after the election.
>
> . . . the current level of debt is an unsurmountable problem which makes AN's future unsustainable. . . Senator Ferris asked if the debt was set aside, does AN have a future?. . . No. . . we have reached a stage now where, in AN's hands it would be almost impossible for us to continue but in private hands I think those businesses can be rescued and the jobs of those people currently employed can be saved.

Mr Mark Carter, Executive Officer of Rail 2000 said:

> We support the sale of AN. We would not wish to see the outcomes of this inquiry delay the sale of Australian National. AN has been an organisation in terminal decline for a number of years now. At times it appears to have been an organisation out of control. Any delay in the sale of AN will only exacerbate the situation, and the rail transport industry in Australia and, more importantly, South Australia and Tasmania will be the worse for it. . . The rural rail network in South Australia has been decimated over the last decade or so and over 1 300 kilometres of track has been lifted. If we delay this process any further—for whatever reasons—even with the best will in the world, what you are going to see is that there will be no rural rail services in South Australia.
>
> The previous Federal Government. . . has had three years to sort this mess out. Rail 2000 highlighted in our newsletter in, I think, May 1993 that unless something was done then, we would be seeing wholesale job loses and wholesale rail closures. And everybody has just sat by and let it happen. It was obvious when National Rail, for whatever reasons, took over the interstate business of Australian National, that AN then, on that day, was doomed, and nothing has been done about it.

The South Australian Farmers Federation, the Australian Barley Board and the Australian Wheat Board combined to put in a submission to the Senate inquiry. One part of its submission states:

> AN has not got a future. The slate has to be wiped clean.

Joy Baluch, the Mayor of Port Augusta, in her inimitable style had these few words to say to the committee:

> You would have to be deaf, dumb and blind and with a Labrador dog to suggest that AN should continue to be operated by the

Government. We had Laurie Brereton here on a number of occasions, and he lied to the work force.

Senator Calvert, a member of the Senate committee, asked:

What would be the effect if the sale was blocked in the Senate?

Mayor Baluch's reply was:

Senator Calvert, I refuse to believe that Senators are that dumb.

Senator Collins asked:

How many of them have you met?

Mrs Baluch replied:

Well, I have met you, dear.

Ian McSporran, City Manager, Corporation of the City of Port Augusta, said:

Council favours the privatisation of Australian National.

Colleen Hutchinson, a former colleague of many of the members on the other side of the Chamber and now CEO of the Northern Regional Development Board, had this to say:

. . . over the last 10 to 12 years I have been involved in the AN issue as it has become in Port Augusta. There have been substantial job losses. Over that period of time, it is my view that there was some very bad management of the AN railway.

. . . If AN had been handled correctly over the years, particularly from that period 10 to 12 years ago, it could have been a viable operation. But, because of decisions that were made both politically and in management terms. . . AN was set up to fail over that period.

. . . I have had both a personal view and also a business view that rail needed to be much more competitive. In the past. . . neither AN or NR have been sufficiently competitive.

Senator Ferris asked Colleen Hutchison what assurances Minister Brereton was able to give the AN workers that he was doing all he could to protect their jobs. Mrs Hutchison replied:

. . . I believe that the Minister, from what I read in the media and heard on television, had assured them that jobs would be maintained here. Quite frankly, I do not think that NR will work until all the States are involved in it.

I think they are very strong words of condemnation from a former member of this State Parliament and a member of the Labor Party. Rod Nettle, CEO of the Spencer Region Development Association said:

The association as a commercial organisation has never really been able to fathom the failure of the [former] Federal Government to address the financially illogical arrangements that it set up of leaving one of its entities holding a very large debt while encouraging the movement of its business away from servicing that debt. From our observations it certainly appears that the [former] Federal Government is creating two equally inefficient Government business entities with one guaranteed to implode before the other.

Senator Calvert asked:

Do you think the proposed changes should be opposed in the Senate?

Mr Nettle replied:

I do not think they should be opposed, simply because what we have got is a mess out there at the moment. Look, we do have to make these changes, we have to make the thing more efficient, we have to look after the management side, we cannot have AN and NR out there chucking rocks at each other, because that simply just does not work.

Brew did a good job in his recommendations, given the brief he had. He said, 'Look; if this is the situation you've got, you may as well chuck it and let somebody else start it.' Bearing in mind the current position of the Federal Labor Party, perhaps more pertinent are the following comments from Mr Allan McNeil, Vice President and organiser of the AWU, South Australia, who said:

Even though we could understand that technology would take over some of the jobs, there just seemed to be a blind focus that the only way to reduce costs was to get rid of people and dig up infrastructure that was not being used.

Charles Morton, Secretary of the Trades and Labor Council of Port Augusta said:

. . . the decision by the Minister for Transport to give everybody a redundancy package has made things easier. . . it has made the acceptance that privatisation is not such a bad thing.

Mr Scott McLean, Assistant State Secretary of the Construction Forestry Mining and Energy Union of the Forestry Division of Tasmania, said:

If we look to 1984, the then Bureau of Transport Economics suggested that there ought to be a major restructure and upgrade of Tasrail. That resulted in a change of name. That was the 'major restructure'. . . They [the former Labor Government] used Tasrail as a political football.

Mr Craig Osborne, Rail Division Secretary of the PTU, Tasmanian Branch said:

If privatisation can show that we have an operator that is prepared to put in and be aggressive, then I am not necessarily opposed.

Perhaps the most telling of all (and I will repeat it in part) is the letter from the AN Port Augusta Rail Taskforce of which the Minister spoke today, because this sums up the feeling of the people whose lives will be affected by this decision. In part, it states:

As members of the AN Port Augusta Rail Taskforce, we wish to advise you of the support of the majority of employees within the Port Augusta workshops of the action being taken by the Government to sell the business activities of Australian National.

While we realise that the action of the Government will put us as rail employees in the unknown in relation to future employment, we believe that it is better for ourselves and our families that a final decision is made in relation to the future of railway as soon as possible. We therefore ask for your support for the passing of the relevant legislation enabling Australian National to be sold.

Yet, in spite of all this evidence, in spite of the well publicised views of the affected unions and workers, the Federal ALP has still chosen to try to block this necessary legislation, but it will not block it alone: it will have to seek the support of the Democrats or Senator Colston or Senator Harradine. Senator Harradine has already indicated that he may oppose the legislation, so the ball is in the court of the Democrats, who are indicating that the sale should be tied to guaranteed employment under new owners.

The Hon. Diana Laidlaw interjecting:

The Hon. CAROLINE SCHAEFER: I am going on to say that. Their view is in spite of warnings that such requirements may jeopardise any sale at all thereby wiping out all jobs. It is also in spite of warnings from the State Secretary of the Public Transport Union, Mr Rex Phillips, who has expressed the view that redundancy payments and superannuation entitlements could be threatened by such a stand.

There is no choice: AN must be offered for sale as quickly and as painlessly as possible. AN workers must have redundancy payments and environmental impact funding made available as soon as possible so that they can stop the uncertainty, get on with their lives and be best placed to seek employment from any new purchaser. I repeat that this may not be what any of us wanted but there is no choice. I therefore ask the fair-minded people of this House to put aside paltry Party politics and support common sense and the expedient sale of AN.

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

VOLUNTARY EUTHANASIA BILL

Adjourned debate on second reading.

(Continued from 5 February. Page 830.)

The Hon. DIANA LAIDLAW (Minister for Transport): The Hon. Anne Levy has introduced an important Bill in this Chamber. On 6 November, when explaining the Bill, she said:

> I believe it is time that the Legislative Council considered this issue.

I agree wholeheartedly. I found it most disappointing and distasteful that the House of Assembly last July voted to prevent the progress of a private member's Bill to the Committee stage. Essentially, the House of Assembly gagged debate on a measure which I think the community demands that we debate.

I am not sure why the House of Assembly was fearful of debating illness, death, choice and dignity in dying, but I would have thought that living and dying were pretty basic issues. How we live and how we die are matters about which we should not be afraid and matters that we should grasp. Somehow in this place we seem to be able to talk about a range of issues that make, in essence, little difference to the quality of individuals' lives and how they work and relate to family members and friends. There could be possibly no greater issue than living and dying and how we do both, yet for some reason elected representatives in the other place were too scared to even debate that issue.

I believe that they betrayed the trust and the responsibility they have as members of Parliament to address such issues. That was their choice but this is my view. No matter what one believes about the Bill, the Hon. Anne Levy is not asking us to determine whether or not we like it or, if we do not wish to pursue one issue, to get stuck on that issue and not advance the whole Bill. We know that those tactics are adopted from time to time when some issues are difficult. The Hon. Anne Levy is not proposing that. The honourable member has prepared a Bill with a lot of care, in my view, but a Bill that still demands, I think, and she would argue, further debate and community input. She is providing that opportunity by suggesting that the Bill be referred to a select committee, and I wholeheartedly support her in that endeavour.

I should note that the Bill is based on Northern Territory legislation, which we know in practice works. The Federal Parliament has denied the continuing operation of that measure, and I believe that was a low point in Federal-Territory-State relations in this country. It was certainly a low point, in my view, in the way the Parliament relates to individuals in this country.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: And what was interesting, too, when one looked at the voting pattern, particularly in the Senate, was the strong support from women for the Northern Territory legislation. I suspect that is because so many women ultimately do the major amount of caring and, in some respects, are so much more hands-on in terms of family relationships. I am not arguing that women have more compassion than men; I just say that it is a fact of life that we are closer on a daily basis to some of those issues—not all women but I think most, and that does change our attitudes to caring, particularly in relation to this issue of dying.

In my view the Bill contains the strictest of safeguards. Others may not think so but that is not a matter that we necessarily debate in this place: it is a matter for the select committee. The Bill builds on provisions in legislation already passed by this Parliament, namely, the Consent to Medical Treatment and Palliative Care Act. Those provisions enable trustees to be appointed to ensure that, as far as practicable, the wishes expressed in an advanced request are followed.

I relate some personal experiences, not for sympathy and not in terms of emotionalism, but as matters of fact. My mother died when I was 12 years old. At the time my two sisters were 10 years old and four years old. My mother had suffered cancer for 10 of my 12 years of life and she had endured many operations because of that cancer. She had undergone a double mastectomy. She had cancer of the spine and had undergone various operations for that. She was given radiation treatment in the early days of radiation treatment in this State and suffered excruciating pain. Because it was in the early days of radiation treatment, her back was extraordinarily pitted; there were deep pits.

Her hair and skin were affected. She wanted to live and she went through the lot because she had a young family. We all know of the pain she suffered, and it was something we shared with her. I will always remember coming home from school one day when I was probably about 11. I got home a bit earlier than she had expected and she was crawling down the passage because she always wanted to make sure, even if she was in bed all day, that she was up when her children came home from school. But I arrived home a bit earlier and she was making every effort to get down the passage. It is a memory I will never forget. My mother's experience has made me very active, not as active today as I would wish to be because of other responsibilities, but certainly active in working for palliative care and other ways of controlling pain.

As the Minister for Health indicated in the other place when the Bill was debated there, the palliative care legislation which this Parliament has passed does not suit all circumstances. Certainly, it is a fact that medical science has made huge advances in terms of dealing with the issue of pain, but it does not have all the answers, and I do not think that we in this place should say that, because medical science does not have all the answers, people should not have all the choices.

I know of other circumstances, and I suspect that if we were all candid about our friends and family we would know similar circumstances, where family members, with the understanding of a family doctor, have provided an overdose of a drug to relieve pain which gives the final release from horrific death. I suspect, although I will never know, that that was probably the circumstance of one of my grandmothers.

In terms of people's principles and morals—and I respect individual views on this matter—I question why some people in our community and our Parliaments accept that a doctor and/or family has the right to decide the occasion of a death by lethal levels of painkiller, yet the community, and particularly our Parliament with the laws, provides no such right of decision for people who are dying themselves.

This is hypocrisy and we should all search our consciences. I do not think that I nor anyone else in this place should turn a blind eye to such things. We should come out and acknowledge that practices are happening, but practices are not happening because we do not provide people with a choice themselves. They are happening because others are making those choices for us. We condone that but we do not condone a person making their own choice.

A friend of mine and an extraordinarily courageous woman, Senator Jocelyn Newman, has twice had cancer, has

had some pretty big operations, has suffered a lot of pain and has bounced back. She is a courageous woman and, when speaking on the Northern Territory legislation, she talked about this hypocrisy in our society. She talked about the hypocrisy amongst doctors as well—not only the hypocrisy to which I referred earlier where we as a community condone family doctors and family members making decisions in terms of lethal overdoses.

The Hon. T. Crothers: And turning a blind eye.

The Hon. DIANA LAIDLAW: And turning a blind eye. In terms of doctors, she said many were unwilling to assist a dying patient who chooses to die with dignity, yet the same doctor is probably willing to produce a similar result based only on their own judgment and the urging of a family. That is of major concern.

The Northern Territory legislation enabled people to die with dignity. That legislation should not be addressed just in pacesetting terms. It was legislation that required an extraordinary amount of soul searching by some very compassionate people. Chief Minister Shane Stone, a staunch practising Roman Catholic, is one of the strongest advocates of this legislation because he cares. He will not be just told what to do by some greater force, and he searched his conscience, looked around and saw what was happening in the community. He is one great Australian.

It is not often that members of Parliament have the opportunity to make a difference and, in doing so, come out as courageously as he has not only to champion change but also to test the positions taken by his church, which is very dear to him. But what the Northern Territory provided and what we in this State must look at providing is an opportunity for people to choose. We are not telling them, nor did the Northern Territory tell them—although the Federal Parliament later did—that they do not have a choice. The Northern Territory was not compelling anyone to do anything they did not want. It was simply providing a choice—a choice in circumstances in which most of us hope we will never find ourselves, that is, with a terminal illness and in extraordinary pain. I know that lots of people may well oppose my views, but I do not understand how anyone anywhere can argue that people should not have—

The Hon. Sandra Kanck: Only 16 per cent will oppose it.

The Hon. DIANA LAIDLAW: That may be so, but I cannot understand how people can deny choice, particularly in such a limited circumstance, and still be comfortable with that view. How can we as liberals profess to prize family life and individuals yet deny such a fundamental thing as choice in terms of dignity in the way in which we leave this earth. I respect those views. I only hope that they respect my choice, and those of others like me and our loved ones if I and they are diagnosed with a terminal illness. I hope that they will not dictate to me how I die but give me the choice to die with dignity.

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

DENTISTS (CLINICAL DENTAL TECHNICIANS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 March. Page 1253.)

The Hon. DIANA LAIDLAW (Minister for Transport): I know that the Hon. Paul Holloway is probably cheering, but I am finally on my feet in respect of this matter. I indicate that the Liberal Party has given a great deal of time to researching and debating this issue, which relates to amendments to the Dentists Act to provide for clinical dental technicians to be able to work in the area of partial dentures. I indicate that after all that research and debate the Liberal Government will not support this measure. I have been one who has not throughout the debate supported the measure. I served with the Hon. John Burdett on a select committee of the Legislative Council in 1983 when we considered a whole range of issues in relation to clinical dental technicians, the ambit of their work practices and their experience to undertake those practices.

Therefore, I want to refer a little to the history of registration. The Dentists Act currently provides *inter alia* for the registration of persons as clinical dental technicians. Persons so registered may only work in the area of provision of full dentures directly to the public. The history of the granting of registration to clinical dental technicians is relevant, in that it indicates the limited base from which they operate. I indicated earlier that the 1983 select committee of the Legislative Council on which I served considered the matter of the registration of dental prosthetists or, as they are now known, clinical dental technicians. Because I had difficulty getting around the word 'prosthetist' in 1983, I am glad they have changed the title.

The Hon. P. Holloway interjecting:

The Hon. DIANA LAIDLAW: I have even less support for them, then. They are now known as clinical dental technicians, dental technicians and dental laboratories. After the deliberations of the select committee, the only form of registration that came out of the committee was a limited form of registration for clinical dental technicians—limited in the sense that they were only to be permitted to construct and fit full upper and lower dentures, not partial dentures, directly to the public, and limited in the sense that it was not meant to be an ongoing form of registration creating a new profession. I quote from the select committee findings as follows:

> It is stressed that these recommendations would not create a new class of practitioner as the technician operating in the area of clinical denture work is already in the work force. The recommendations merely seek to formalise the present situation based on proper standards.

At that stage the Dental Board arranged an assessment program to facilitate registration under the 'grandfathering' provisions in accordance with the select committee recommendations. Two of these assessments were carried out in 1984 and 1985, and at that stage 24 practitioners were duly registered. A further assessment was conducted in late 1990 and early 1991, and at that stage a further seven candidates were successful. The regulations were subsequently changed and now require satisfactory completion of a course of at least one academic year or the equivalent in clinical technical dentistry conducted by a university or other body or by a State or Commonwealth department, and satisfactory completion of an examination in clinical technical dentistry conducted by or on behalf of the Dental Board.

I am advised that some registrants (some of whom had not passed South Australia's assessments) gained registration by going to Queensland to take advantage of the 'grandfather' assessments for the dental prosthetists in that State and came

back to South Australia to be registered under mutual recognition terms.

I turn now to the provision of partial dentures. The issue of the provision of partial dentures by clinical dental technicians is one that has been pursued by this sector for a number of years. The previous Government introduced legislation to enable it to occur in late 1993, but the legislation lapsed due to the election. The member for Spence reintroduced the Bill in 1994. The Government did not support the Bill at that time, on the basis that clinical dental technicians were not trained to provide partial dentures directly to the public; they had had variable training, having qualified for registration under 'grandfather' assessment.

The Government argued that they lacked training and expertise in oral disease identification and infection control. Now the Hon. Paul Holloway has introduced a Bill in the Legislative Council to allow clinical dental technicians to provide partial dentures directly to the public, but only if the Dental Board is satisfied that they have completed the Partial Denture Bridging Course for Advanced Dental Technicians conducted by the Royal Melbourne Institute of Technology (RMIT), or any other course that may be prescribed.

The RMIT course, as its name suggests, is a bridging course developed in Victoria to be undertaken by advanced dental technicians who wish to extend the scope of their practice to include partial dentures as permitted by amendments to the Victorian legislation in 1995. I am advised that it is a 5½ week full-time equivalent course. Some South Australian clinical dental technicians have recently chosen to undertake the RMIT course, presumably in the hope of some legislative change in South Australia and in the belief that it would equip them to do partial dental work. Nine have completed the course and are awaiting their results, and four are part way through the course.

Figures supplied to me by the Dental Technicians and Dental Prosthetists Society of South Australia Incorporated indicate that there are 36 registered clinical dental technicians in this State. Of these, 11 are over 70 years of age and retired or not in active practice. Three are not practising in South Australia and seven have a Queensland qualification, which I am advised includes instruction in partial dentures. There are also four part way through the RMIT course. Two have not indicated a wish to do the RMIT course and nine have completed the course and are awaiting results. Potentially, therefore, 20 clinical dental technicians in South Australia may seek to do partial denture work in this State should there be legislative change, 13 of whom have done or are doing the RMIT course. I am advised that there are 780 registered dentists in South Australia, according to the latest dental register.

I suppose it would not come as much of a surprise that the Australian Dental Association does not support this measure. It has various grounds for its opposition, the first being that partial dentures are detrimental to health and should be prescribed only in selected cases, and that clinical dental technicians have far inferior medical and paramedical clinical disciplines compared to dental hygienists and dental therapists. It argues that the proposal by the clinical dental technicians to provide partial dentures after a 5½ week course is grossly inadequate. The Government agrees. Clinical dental technicians also openly state that they have practised illegally in the past and this, and their lack of adequate biological knowledge, in the opinion of the Australian Dental Association, raises serious doubts about their commitment or ability to comply with safe infection control practice and oral health standards.

I have been advised by the Minister for Health that the Dental Advisory Committee of the Health Commission has considered the role of clinical dental technicians and that a subcommittee of the Dental Advisory Committee was specifically established to consider the issue. The subcommittee initially, and now the Dental Advisory Committee, has advised the Health Commission and, in turn, the Minister, that it would not be in the public interest for clinical dental technicians to make removable partial dentures.

It has been contended that there would be some cost savings to the pensioner denture scheme if clinical dental technicians were permitted to make and fit partial dentures. This is a matter of conjecture, particularly taking into account the view of the Australian Dental Association that partial dentures should be prescribed only in selected cases—and we should heed that advice—and having regard to the cost involved in having proper infection control procedures in place.

I do not think there will be much work anyway. That is essentially where I am coming from in respect of this issue. So, the cost saving in terms of the pensioner denture scheme is of little relevance in the view of the Health Commission. However, it is the Minister's intention to have further discussions with the ADA about rates for dentists who provide partial dentures under the scheme. He will consider further the issue of whether dental technicians and dental laboratories should be registered.

I was interested to note that earlier today the Hon. Bernice Pfitzner as the Presiding Member of the Social Development Committee reported on the reference of infection control. That issue must seriously be taken into account in looking at this matter. The Government has done so and, on balance, it has come to the view that it is not prepared to support this measure.

The Hon. CAROLINE SCHAEFER: I support the Minister's comments, but I must say with some reservation. I have no intention to cross the floor. This matter was debated at some length within our Party. I have not done the research that has been done by the Minister for Health's office, the Health Commission or the previous select committee which looked into this issue. However, I think a number of matters should be raised at this time in deference to those people who feel so passionately that they have missed out because of the lack of legislation in this State.

I think it needs to be remembered that clinical dental technicians have the right to make partial dentures in other States. The concern in this State is that the standard of training and education of clinical dental technicians is not adequate. In spite of the fact that many of them have done the RMIT course in Victoria, there is still a strong suggestion that many of those people do not have the background training that is necessary for them to carry out the procedures required for the fitting of partial dentures.

However, there is also considerable evidence that dentures and partial dentures are considerably cheaper when supplied by a dental technician rather than a dentist. I would not choose to go to a clinical technician—I would prefer to have the expertise and overall care of my dentist whom I trust—but it needs to be acknowledged in this place that there are people who are not as fortunate as I and who do not have private cover. Therefore, they must choose between waiting

for a considerable period for public facilities or going to a technician for a cheaper provision of this prosthesis.

I believe there is insufficient evidence at this stage to support the Hon. Mr Holloway's motion. However, I think there is sufficient evidence to suggest that the Dentists Act as it now stands should at some time in the future be reviewed to look at the minimum standards required for any particular dental service that is offered, including the provision of dentures and partial dentures.

The Hon. BERNICE PFITZNER secured the adjournment of the debate.

ABORIGINAL RECONCILIATION

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That the South Australian Parliament expresses its deep and sincere regret through the forced separation of some Aboriginal children from their families and homes which occurred prior to 1964, apologises to these Aboriginal people for these past actions and reaffirms its support for reconciliation between all Australians.

In speaking on behalf of Government members in this Chamber, I indicate that I am pleased to move the motion on behalf of the Government in this Chamber. I indicate also that I am pleased that my parliamentary Leader (Hon. John Olsen), together with the Minister for Aboriginal Affairs (Hon. Dean Brown) have been prepared to show in the broader South Australian community political strength and leadership on this important issue at this important time. I am also pleased to note that in another place and certainly in this place as well there will be bipartisan support from the Opposition Party and, as I understand it, from the Australian Democrats as well for the essential nature of the motion we have before us this evening.

I am pleased that the South Australian Parliament in a bipartisan way has been prepared to show strength and leadership on the important issue of reconciliation of all Australians as it has only in recent months demonstrated its commitment to the important principle of multiculturalism within our South Australian community and within the broader national Australian community as well. In other States and territories these issues have divided political Parties and leaders. I have said often in my own portfolio of education, first, as the shadow Minister and more latterly as Minister for Education, that I have been delighted with the bipartisan support from the two major Parties (Government and Opposition) to the essential principles of multiculturalism and, in the case of education, multicultural education policies for implementation within our schools and pre-schools of South Australia and, ultimately, for implementation in the broader South Australian community as well. I am delighted therefore again, as I have said, to see the bipartisan support for the motion that I on behalf of the Government move in this Chamber this evening.

At the outset I do not want to speak as the Leader of the Government in this Chamber and the Minister for Education but as a parent who is proud of our four children at ages 10 through to 17, as our eldest lad is now. I put on the hat of a parent, as I know many in this Chamber will similarly do in addressing this motion, and try to imagine how as a father I would feel at the prospect of anyone taking my own child or children away from me at a young age against my will and my child's or children's will. We can try to put ourselves in the situation of the children and how it must have felt to have been forcibly separated from your mother, your father and your family at a young age, not understanding why, not understanding where you were going and what the future might hold for you and not understanding whether or not you were going to see your mother, your father or your family again, but it just happening.

In thinking about the issue over the past few days and this motion over the past 24 hours, any parent—and, as I said, I look at this as a parent—looking at this through the eyes of their own children would recall seeing the terror that they experience in much milder ways in terms of separation, whether it be the first time they go to a child-care centre, the first time they go to pre-school, the first time they go to school or the first time they are separated perhaps for a school camp. There are thousands of trivial examples of separation for relatively minor periods that children confront and, for that matter, parents also confront when they leave their children at school or in a child-care centre.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: That is an interesting point. As the Hon. Terry Roberts says, I am sure that many parents cry as much as the children do when they leave their child for the first time at pre-school, a child-care centre or wherever else. They are minor examples but, as parents, whether ourselves or our friends, we know of the trauma involved in separation in those sort of examples.

As members of this Chamber who discuss the issue in whatever position we hold, many of us will look on this motion as a parent, as I do, and look at it through the eyes of my own children to in a small way understand the horror and tragic nature of the policies of years past in relation to this important issue.

A parliamentary college of mine once recounted a story that occurred in Australia in only the 1950s. This is not a parliamentary college of Aboriginal decent but one from a non-English speaking background. He told stories of similar policies that existed when he, as a young child, was forcibly separated from his parents because of concerns about an infectious disease he had. He recounted the story to me of the horror and terror he had at the age of eight or 10 years when he was forcibly separated from his parents. He did not see them for some months on end when he went to the infectious diseases hospital in the northern suburbs. He was locked in a room and did not know why he had been taken from his parents or what was being done to him. Nothing was explained. He was not allowed to see his parents. This happened in only recent decades. I use it as an example of thinking that is hard to understand in the 1990s as we debate this motion.

Times were different. People obviously made their decisions from a perspective different from the sort of perspective that we obviously share today. I do not intend to go into any great detail on the arguments for and against the policy of today. I only want to quote one small sentence from the document, 'The Removal of Many Aboriginal Children'. Under the heading 'Select Committee' it refers to a select committee of this Chamber, the Legislative Council, back in 1860, which had been asked to investigate the condition of Aboriginal people and to suggest ways in which their circumstances could be improved. The report states:

With regard to children, the select committee recommended that they should be taken away from their parents and brought up in schools.

It reported that:

Perfect isolation was considered as necessary to relieve the rising generation from the evil influences and examples of their parents.

That is a report from a select committee of this Chamber 137 years ago. Times have changed. I do not intend to speak at length and will not go into the detail of the policy.

What I say tonight to members, on behalf of the South Australian Government, is that the Government is a strong supporter of the process of reconciliation. As Minister for Education, I must say that I see as a most important part of any genuine attempt at reconciliation a need to address radically the issues of the health and education standards of Aboriginal people in the remote and urban areas of South Australia and Australia. As Minister for Education I believe that, if we are to be genuine about this process of reconciliation, as a State and a nation, as a community and a Parliament, we must address the essential issues of lifting health and education standards for the Aboriginal community in South Australia.

I am sure that the community knows that what was done in the past, as referred to in this report, was wrong, and it is appropriate that, on behalf of my colleagues, as Leader of Government in this Chamber I have moved this motion and, in a spirit of tripartisanship, I urge all members to support it.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I am very pleased to support the motion moved by the Leader in this place, and I understand that other members of my Party will also strongly support it. It states that we express our deep and sincere regret and that we apologise. Those two essential elements have to be said by all people in Australian society if we are really to live through this issue, not put it behind us, but take it as part of our lives, too. There are some people in Australian society who think that, because they had no part or no role in this action and because they might have expressed regret about it, they do not really have to apologise. That is regrettable, because I believe that we do have to apologise.

I could say that, because I did not live in this country at the time and because I was not born in this country, I had no part in it, but as a migrant I feel the horror of it. Like the Hon. Mr Lucas, as a mother, many times I have put myself in the position of wondering how these women, in particular, must have felt to have their children forcibly taken away from them. In some cases they were rounded up like animals and torn away from them. It was the most appalling period in Australian history and we have to face it as a society. Until we do and until we express regret as a whole nation, we cannot go forward.

As the Hon. Mr Lucas used his own family members to describe how he would have felt if it had been his child who was taken from him, I should like to read into *Hansard* the words of some of the women whose parents or relatives were taken away from them. A lovely book, which was compiled by Port Adelaide Girls High School students and which is entitled *Angkiku Bultu—Women's Paths*, contains some very moving stories. A woman called Sandy Mason stated:

I was born in Adelaide in the Queen Victoria Hospital in 1947, which makes me 47 this year. My grandmother was a displaced person and she ended up as a derelict. From what we can gather she was found on a rubbish tip at Port Adelaide. She had an alcohol problem, and she died of pneumonia. My mother was a welfare child and she went through the welfare system, ending up in many different homes so from the day I was born, I was also a welfare child. I was given to a white family. The lady was about 55 years old. She had five children of her own, and she was a pensioner. I had no contact with my mother at that time, and I didn't know anything about my past life. . . I grew up in a white society, and only came back to the Aboriginal group in about 1979.

She goes on to describe some of the horrors of her life living with that white family. Another woman called Sylvia Jackson says that she, too, was taken away from her family, and did not know either of her parents. In her story, she says:

While I was growing up, my life was affected by the Exemption Policy. Living with my grandparents, and having a white grandfather, I needed the exemption for work and to socialise. We called the exemption a 'dog tag'. If I had been a drinker, I would have had to produce this little folder before they would serve me with a drink. Many girls were also taken away from their families and put in the Fullarton Girls' Home. Then they were placed out in homes as domestic workers. Having a white grandfather most probably protected me.

Another young woman called Josephine Judge talks about her life, and she says that she, too, had no knowledge of where she came from or who her descendants were, because she was taken away as a very young child. These are just some of the stories, and I thought I would read them into the *Hansard* because they are stories about South Australian women. We know that all across Australia this occurred. It was a policy that was not something that happened 100 years ago. It happened until fairly recent history, certainly within the living memory of every member of this Chamber. So, even though we would not have taken an active part in this, we are in many ways culpable because we were there, we were alive, and we are part of the Australian society. I believe we have to say we are sorry and give our sincere apologies to every Aboriginal person in this nation for the crimes that were perpetrated against them.

The Hon. SANDRA KANCK: The Democrats support this motion and congratulate the Government for introducing it. I do have one concern about the motion, namely, the potential for ambiguity. For that reason, I move:

Delete the word 'some' from the motion.

I believe that if I am not supported in the removal of this word from the motion, any reader of this motion would have to ask whether it is expressing regret to only some of those who were separated or whether it is expressing regret to all of that portion of the Aboriginal community who were forcibly separated. While I am quite convinced that it is the latter interpretation that the Government intends, I am concerned that that ambiguity exists. I am attempting to remove that ambiguity because, just a few weeks ago, there was a widely publicised statement—I cannot remember who actually made it—that some Aboriginal children would have been better off by being taken away from their parents.

The Hon. Carolyn Pickles: Pauline Hanson.

The Hon. SANDRA KANCK: Right. Certainly there are people of that ilk who would say that sort of thing. If we delete the word 'some' from this motion it ensures that we as politicians in this Chamber cannot be deliberately misinterpreted as supporting that point of view. I have already had some preliminary discussion with the Government and the Opposition about my intention to move this, and they have both indicated to me prior to this debate that they would not support that move.

The PRESIDENT: Order! Is the Hon. Sandra Kanck's amendment seconded?

The Hon. SANDRA KANCK: Because the amendment has not been seconded I cannot proceed with it, so I shall simply make the observation that by including the word 'some' it does leave us open to that particular accusation if

somebody wants to make it. I think it is rather unfortunate that apparently the Opposition agreed to the wording of this motion before it came into Parliament. I think it is a pity that the Democrats were not consulted about it because I think we could have improved the motion—not least of which would be the removal of the word 'some' and also we could have had greater inclusivity in the motion.

The taking of children from their parents was not the only trauma. One has to look at the added fear that emerged in the community. The statements made by Evonne Cawley in yesterday's reconciliation hearings in Melbourne demonstrated only too well that the whole of the Aboriginal community lived in fear of the welfare man coming to take away the children.

While we are talking about this motion and are willing to say 'Sorry', I want to raise the question of compensation. Governments are not too comfortable with talking about this. However, last year we were willing to compensate people for the loss of guns. If we are prepared to compensate a man for the loss of his gun, surely the loss of a child from its parent—a forced separation, in fact—deserves greater compensation than the taking away of a gun. When you consider mothers being deprived of their children and the years of grief and loss that have gone on, it is almost incomprehensible when you look at it in terms of the numbers of people involved. Anyone who has read the book *My Place* would be aware of the sort of thing that happened, where parents had to deny their Aboriginality both to themselves and to their children in order to be able to keep their children. This left children without an identity and struggling to find their place in what was—if they were taken away from their parents—in many cases an alien culture. For many of them it remained an alien culture for the rest of their lives, and one in which they were given no part to play and were excluded from it.

We had grief, alienation, denial, loss of identity and destruction of the family. When you consider that that came on top of a dispossession of their land, within the conscious memory of the Aboriginal people only two or three generations earlier, we see that the impact on the Aboriginal community was enormous then, and it will continue to be that way for quite some time. Hence, the importance of an apology. An apology is a way of accepting responsibility. It is not the same as accepting blame, as some people seem to think it is, and really it is a sign of maturity. By accepting this motion, we are recognising that a major mistake was made some 50 years ago, and we are putting it on the record that we agree that a mistake was made. In so doing, we can recognise that those mistakes are having an enormous impact on the Aboriginal community, and it will allow us to deal with that impact. Aside from the fact that I have concerns that the motion is not as good as it might have been, I indicate that the Democrats are pleased to support the motion.

The Hon. ANNE LEVY: I wish to make a few remarks to support the motion most wholeheartedly. There is an element of shame on the part of all decent Australians when they think of the so-called stolen generations and the horror of these forced separations which have been inflicted on so many Aboriginal people. As an Australian, while I had no part in it, I feel ashamed that our Governments have been involved in this practice—not necessarily with evil intent—of forcibly separating children from their parents and raising them in an alien culture. That this should have been perpetrated on Australian citizens by their own Government is something for which we should all feel ashamed.

I am very pleased to be able to offer my apologies to all Aboriginal people that such dreadful things should have occurred. I do not understand why some people find it hard to say 'Sorry'. When something dreadful has happened it should be the automatic reaction on the part of all decent Australians to apologise for these barbaric practices. I have known and still do know many Aboriginal people to whom this happened—people such as the wonderful Ruby Hammond, after whom the new electorate of Hammond is named; Val Power; Muriel Van der Byl, Shirley Paisley; Janine Haynes—

The Hon. T. Crothers: Is she a member of the Democrats?

The Hon. ANNE LEVY: No; that is another Janine Haynes. All of these women, who are my age and younger, were forcibly separated from their parents and brought up either on missions or in orphanages, or fostered or adopted out to white families. Let us not forget that absolutely outstanding Aboriginal person from South Australia, Lois O'Donoghue, to whom this tragedy occurred at a very young age. I have long known this as a practice of the past, but it really brought it home to me when I met people of my own age and younger to whom it had happened. It brought home the immediacy of the situation and a realisation that within my own lifetime these dreadful practices were occurring.

Someone showed me a quotation taken from a Western Australian *Hansard* of 1907. I am sorry that I do not have it with me to quote it *verbatim*, but the member then speaking in the Western Australian Parliament was justifying taking Aboriginal children away from their parents, usually their mothers. He commented that this would be of advantage to the children and that, after a day or two of grieving, the Aboriginal mothers—or 'native mothers' as he called them—would forget all about it, not miss their children and resume their normal lives. The utter insensitivity of this quotation appals me, suggesting as it does that for some reason Aboriginal women would not miss their children after a couple of days in the way that a cat perhaps does not miss her kittens two or three days after they have been taken away from her. It is an appalling illustration of attitudes at the time, that Aboriginal women were not like other women and would not mind if their children were taken away from them. Furthermore, I am told that, soon after that debate, this Western Australian politician left the Parliament and was appointed Protector of Aborigines in Western Australia so that for at least 20 years he was responsible for continuing this practice of taking Aboriginal children away from their mothers.

On numerous occasions his protector's reports repeat his observation that, when the children were taken away, within two or three days the women no longer missed them and consequently there was no disturbance or upset of any magnitude caused to them. As a mother myself, I feel it is just appalling that families could be forcibly split up in this way. I am sure that I would have grieved for far more than one or two days had my children been torn away from me, and the Aboriginal mothers certainly grieved for their children for many years, often until their deaths, as many stories given to the inquiry into the stolen generation have shown; stories of them waiting for months and months, waiting to hear what might have happened to their children, waiting for years wondering if they would ever see their children again.

Often it was not just one child; for some parents it was two, three or four children ripped away from them in this way. The policeman and the protector would come in trucks

to round up all the children they could find, load them into the trucks and drive away. Is it any wonder that Aboriginal mothers would tell their children to behave, otherwise 'the welfare' would get them? This was the method of controlling their children and, at any sign of a truck approaching a settlement, all children present were immediately either hidden within the settlement or rushed into the bush to hide if that was possible.

It has been said, I think by Pauline Hanson, that many children benefited from this separation. They may, indeed, have received a very different education from that which they would have received had they not been torn away, but the psychological scars of being separated from their parents and siblings leaves marks for which no amount of education can compensate. Certainly, the conclusion of the inquiry on the stolen generation, that it was a form of genocide, is undeniably true. While individuals may not have been killed, their culture was killed. By taking children from their parents they could no longer grow up within their culture, learn the customs, beliefs and practices of their culture, and there is no surer way of destroying a culture than to prevent it being passed from one generation to another.

It has been said that this official Government policy, aided and abetted by most churches, was followed with the best of intentions. That may or may not be true. Certainly, that may not be true at an individual level as some of the stories of these children and what they had to suffer in orphanages at the hands of paedophiles would make one weep on reading them. At the institutional level, the intentions probably were good, but clearly mistaken. It arose from a total insensitivity to the relationships between parents and offspring.

I believe that the West Australian *Hansard* demonstrates that Aboriginal people were not regarded as people. They did not feel the way white people felt. They were more like animals, who would not miss their children. That seemed to be the assumption behind the so-called 'best intentions'. We now know that this was a very cruel and wrong attitude to take.

I am glad that many of the institutionalised churches in Australia are now apologising to Aboriginal people for what they made them suffer for so many years. I repeat: I am very pleased to be a part of the Parliament of this State formally and most sincerely apologising to the Aboriginal people of this State who suffered so much as a consequence of these most misguided, cruel and barbaric practices.

The Hon. BERNICE PFITZNER: I rise to make a small contribution to this motion. I regret that I am unable to make a longer speech but, due to the shortness of time allowed for this debate, my contribution will have to be brief. Having looked at the report which has just been released and which is entitled 'We Took the Children', I noted some facts that impacted upon me. I note that the policy was to assimilate during the 1920s to the 1950s.

I remember the term 'assimilation' as a person growing up in Singapore under British rule. We also had the policy to assimilate. It was really very uncomfortable because we were encouraged to speak the English language and to forget our Chinese language. We were urged to speak the English language in a certain English way, without an accent. We were encouraged to forget about our culture and move into the Anglo-Celtic culture, and it was very difficult to do so. That was only a small part of what these Aboriginal children were requested to do during their period of assimilation.

I note another phrase, 'to protect and to civilise . . . 1842'. We realise now that those terms are terribly patronising. The report quotes the Governor of the day, who stated:

> Our chief hope is decidedly in the children and the complete success, as far as regards their education and civilisation, would be before us if it were possible to remove them from the influence of their parents.

As the report states, this remarkably prophetic statement is the first recorded reference to the removal of Aboriginal children from their parents and, in today's light and in hindsight what can we say here? Although it was well intentioned, it certainly was not the right way to go. The report also mentions Point Pearce, the mission station from 1913 to 1916. I note that it was a financial success due to sharefarming. I have a particular interest in Point Pearce on the Yorke Peninsula, because I visited this Aboriginal community when I worked with the Child and Adolescent Family Health Service. I visited the kindergarten children of Aboriginal origin there.

I used to be dismayed at the severe ear infections of a large number of those kindergarten children. Further I note in the report that, of the children cared for by the then Department of Aboriginal Affairs, 300 per year were cared for in either private homes or institutions. Further, it says that there was a 25 per cent decline between 1963 and 1968. The decline was in the institutions, although the numbers in private homes were constant. In 1973 the Federal Government accepted responsibility for Aboriginal affairs, and in 1978 the then Department of Community Welfare made serious attempts to place all Aboriginal children with Aboriginal families. In 1982 amendments were made to section 10(4) of the Community Welfare Act, which provides, in part:

> In recognition of the fact that this State has a multicultural community, the Minister and department. . . take into consideration the different customs, attitudes and religious beliefs of the ethnic groups within the community.

Further along the track, we saw the objectives of the Children's Protection Act 1993-95, as follows:

> . . . a recognition that the family of the child is the unit primarily responsible for the child's protection.

I note that there was a gradual understanding of child development as the years progressed. However, the impact of those early years, as the report says, involved:

- a loss of love and nurturing from the family;
- a loss of cultural specific rights;
- belonging to a culture devalued;
- conflicting demands of Aboriginal and European society; and
- language difficulties.

That can further produce many mental and emotional disorders and drug abuse. Further, the report refers to the fact that from 1844 to 1963 all Aboriginal children were placed under the guardianship of the State. The report concludes that, although it was well intentioned and with the move to protect, civilise and assimilate these children, we ought to show, and they request us to show, an open recognition of past mistakes. We should promote the rights of all children to try to achieve their full potential.

It is with sadness that we note this report. However, we must also note that, as we have progressed through the years, we have recognised the importance of children being with their families. This situation fills me with sadness for these children. Certainly, as a mother and as a person specialising in child development, I know that the damage of this removal is immense.

If we can change the damage by saying 'Sorry', I for one would say it a million times. However, we cannot change the damage. Even so, saying 'Sorry' is of value because it shows our own regret, compassion and sadness, and it gives to the receiver a sense of improved wellbeing and a sense of relief from a very heavy burden and a heavy load.

Finally, I would like to quote a review of Professor C.D. Rowley's book *The Remote Aborigines* (1971). The reviewer states:

> This [book] is an indictment of white Australian indifference to the maltreatment of a minority group [in those times].

The writer's basic argument is that no policy can now succeed without reconciliation, and that Governments after two centuries must come at last to negotiate with the Aborigines.

It is also argued that even now it may not be too late to learn from the Aboriginal how to see and how to appreciate this continent in which we live, but this is an issue which demands some humility from us non-Aboriginal Australians. I concur in the sentiments as written by the reviewer and, again, I say sorry, which is a word that is quite inadequate for the pain and the suffering, however well intentioned. Finally, I support the motion.

The Hon. T. CROTHERS: It is with some pleasure and regret at the same time that I support this proposition of the Government. I did not have much disagreement with the Hon. Sandra Kanck's attempt to remove the word 'some', even though she failed to get a seconder. I do not have access to figures here in South Australia, but insofar as the resolution is aimed at the South Australian position—and certainly in respect of figures on a nation-wide basis—'some' would be an inadequate quantification of the number of Aboriginal children who were removed from their parents. I say that because my former wife is an Aborigine and one of the lost children. I shall recount to this Chamber some of the experiences that she and her brother confronted when they were removed from their parents.

Some people have said that perhaps in some instances the removal of Aboriginal children by welfare agents in the various States was justified. I will endeavour to approach this in a balanced way and say that that is true. In some instances the removal was justified, but only in a fairly small number. The position is quite simple. The precursors of this policy were people who sought not to have Aborigines exist as a separate community within Australia but who sought to have them assimilated into the broader Australian community. To that end, the policy of seizing many Aboriginal children from their parents was given effect to. I do not say that all the people who were involved in this did it for that reason, but when one consults history it dictates that a substantial element of the progenitors of that policy of seizure were of that mind in that they sought to incorporate and assimilate Aborigines within the broader Australian population.

The fact that this policy was given effect to was simply a means of eradicating Aborigines from Australia. Those who understand history, as I think I do, will know that the Aboriginal population diminished with great rapidity. Of course the Aboriginal people here, as successive English Governments discovered with the Irish, were very hard pests to exterminate—they seemed to keep on coming on. I touched briefly on this matter when I said that to some extent some Aboriginal children would have been removed from their parents even if they were white children, simply because there was an addiction to drink within the family.

Of course, drink was first brought into this country by the European settlers and, as a consequence of that, one can find a parallel in the Industrial Revolution in Britain, when from about the 1780s through to the outbreak of the First World War the gin palaces of London were infamous—or famous, contingent upon your point of view—in respect of the drunkenness that prevailed amongst the working class poor within the suburbs of London; working class poor who had originally come to London from the agrarian areas of England at the commencement of the Industrial Revolution (*circa* 1780) to try to find work and enhance and increase their standard of living, because industrialised factories paid more—an industrial worker was paid more than an agrarian worker.

The Duke of Wellington, that man who commanded the allied armies at the field of Waterloo, asked for 15 000 cockney soldiers to grapple with the Napoleonic armies at Waterloo, instead of which he got 8 000. When he saw them he observed to one of his field commanders, I think it was Marshal Beresford, 'I don't know what they will do to Napoleon, but they frighten the hell out of me!' That change from an agrarian people in England took a cycle of 100 years or more to complete. We introduced strong drink or alcoholic drink to the Aborigines. So, even though I say that some of the children may well have been taken away even if they had been white, we still must sheet the blame home to us for the manner in which we introduced the Aborigines to some European customs and practices that were less than helpful in respect of the ongoing well-being of Aboriginal people.

As I said originally in my contribution, I am pleased to make a contribution to this debate because I have first-hand knowledge of what occurred when these children were forcibly removed from their parents. My former wife, who is a full-blooded Aborigine, was removed from her parents when she was seven. She had a brother aged 3½, and her memory of that, which scars her to this day—and she and I are still on good terms—was of her little brother screaming and kicking and of her screaming and kicking as the welfare authorities took her from her natural mother. She was placed in a home in New South Wales, in Cootamundra, and this is why I say that it was a racist policy, because that home was solely for female Aboriginal children, of whom it contained several hundred.

Of the several hundred girls that she remembers from her seven or eight years of incarceration in that home, only three or perhaps four have made anything of their life from that time on. She had a brother, as I said, whom she did not see for 12 years until she and I first met in Sydney and we tracked him down. He was in an Aboriginal home in a separate city outside Sydney which, at that time, was not part of the Sydney sprawl; you had to catch the electrified train to Parramatta and then a diesel train out to Windsor, and that is where he was incarcerated—again in an all-Aboriginal home for those seized children. So, now you can understand what I mean when I say that I believe that the policy was racist inspired. It was appalling. We all ought to hang our heads in shame.

In respect of compensation, I put forward a personal view. I believe—and it is the Howard government which determines this, and maybe supported by the Labor Party, or whoever—that money is not going to be paid in compensation. There will be such a spate of litigation—and, I believe, litigation that ought to be pursued through the various courts

of this land—that it will lead to horrendous cost. One ought not to confuse the lost children with what is happening today in respect of Mabo and Wik. They are two separate questions. I have certain views on Mabo and Wik, which my three half-Aboriginal children, my former Aboriginal wife and her new part-Aboriginal husband share with me. And they are not the views that are put forward, in the main, by some of the mainstream proponents of Mabo and Wik.

I say that the question of the lost children is a separate question which ought to be divorced from the emotions of the debate that surround Mabo and Wik. I believe that monetary compensation ought to be paid. Let me tell you why—and this is first-hand information. I believe that when those Aboriginal children were taken from the urban areas of Sydney or Melbourne or Adelaide, or wherever, and placed in pure Aboriginal homes in the rural areas of Australia in an out of sight, out of mind fashion, they were denied the same chance of an education as their European counterparts in the city had. And remember, they did not have parents. It is not like our rural white children who have parents who care and who can pay for and send them to school. These people were dependent upon the Government. Governments in those days, as we all know, did not spend much on education or welfare or anything else. So, because of that unjust seizure, they were denied equality of opportunity, the same as you, Mr President, and I had, the same as any citizen of Australia had at that time, with the exception, perhaps, of the very wealthy, who still had their St Peter's Colleges and their Winchesters and Geelong Grammar—let us not forget Geelong Grammar, and the good job it did in respect of the character of the present Prince of Wales!

I believe that compensation ought to be paid. My former wife was put on a farm in the Cootamundra region at the age of 13. She sold bags of wheat and other crops grown on the farms. There was one lot of farmers who were very good to her. There was another lot where the husband of the house put the hard word on her—this is a 13 year old—amongst other things (and we all know what that means in colloquial Australia) to such an extent that she was removed from the farm. How many other girls did not have her strength of character to see the matter through, and succumbed? Plenty! She has told me plenty of stories, which time does not permit me to put on the record. But by dint of her diligence—like Ruby Hammond and Lois O'Donoghue—she is now a qualified nurse. But that is only due to her own sweat and tears and aspirations. She is one of a few Aboriginals who have succeeded.

So, I believe that there is a strong case for monetary compensation, and if the Federal Government does not bite the bullet I have no doubt there will be very just and swift litigation to follow. I commend the proposition to the Government and the Leader. As I have said, I do not have many problems with the Hon. Miss Kanck's amendment but, while 'some' might be right for South Australia, it certainly is not right for the rest of Australia, and I believe that by the removal of 'some' and just saying 'Aboriginal children' we were not doing any quantification, so that our resolution of thanks could not then be seized by someone in the back blocks of north Queensland and used to show that it was only some Aboriginals who had been removed from their parents. I believe that there is much to be said for the amendment put forward by the Hon. Ms Kanck.

With reference to my wife's brother, I made arrangements for her to see him when he was 15. She saw him on one occasion only. We then tried to adopt him, but that fell through. It was difficult to adopt an Aboriginal 15 year old boy in those days. She has never seen him since. The last she heard of him was that he had a great mentally deficiency—when I saw him at the age of 15 he was not mentally deficient—and that he was living in Redfern. One of her friends from the home at Cootamundra told her this. By the way, this girl and her husband live in Sydney and are millionaires over and over again. They are one of the three or four success stories that I have mentioned.

So, do not anyone tell me that no injustice was done to these lost children. Do not anyone even start to tell me that it did not happen. It happened. I support the motion and, for the reasons that I have outlined, I believe that it would be the finest thing that John Howard has ever done, assuming that he has the backbone. Members used to call Hawke 'jelly back', but, if that is so, what appellation could be attached to John Howard at the moment? If he has any backbone at all, he will divorce this matter from Mabo and Wik, he will not look at the public opinion polls which seem to be driving him, and he will deal with this matter in a just, fair and equitable way, in such a way that some redress can be taken by these people who not only were taken from their parents but, because of their lack of opportunity, their children are now in dire straits because they did not have proper parental guidance. I commend the motion to the Council, I commend the Minister for moving it, and I thank members for listening to me.

The Hon. T.G. ROBERTS: I support the motion in its printed form. I have some sympathy for the attempt to amend the motion, but in a spirit of tripartisanship I am prepared to accept its wording. My interpretation of the words 'That the South Australian Parliament expresses its deep and sincere regret through the forced separation of some Aboriginal children from their families and homes' is that we are expressing deep and sincere regret to those Aboriginal children who were separated. Some Aboriginal children were separated from their families, others were not. They were raised in a family situation, which may or may not have been happy or what we would regard as a normal upbringing as white raised and educated citizens of this country, but they were at least raised within a family unit. I support the motion in its current form based on that understanding.

I have some trouble with the words 'occurred prior to 1964', because I am aware that there were separations after 1964. They may not have been determined by legislation or by a distinct policy of segregation and assimilation, but I am personally aware of Aboriginal children who were separated after 1964. For welfare reasons, economic hardship reasons and health reasons, Aboriginal people were taken from their family unit and, in many cases, fostered out. That may have been for a temporary period, but that then became a *de facto* permanent separation, and those children lost contact with their original parents and, in some cases, were moved interstate.

I am aware of a play that has been written by two young Aboriginal males in Western Australia concerning their own personal experiences.They were born in the Hamersley or the Pilbara region and, partly because of industrial settlement in those areas, in traditional Aboriginal areas, moved to Kalgoorlie via Perth. The play is about to be put on the road shortly and it will travel to all States. It was written around their personal experiences of that process. Part of the introduction that I was fortunate enough to hear by the playwright described the circumstances in the late 1960s,

early 1970s, from memory, when the separation occurred and a recent reuniting with the mother. It was an experience for me to acknowledge that I was listening to people younger than I am explain the circumstances by which they were broken up from their family unit, taken away and, in some cases, forcibly resettled geographically thousands of kilometres away under what could at best be described as a patronising policy of care and concern.

Many ordinary Australians who have had nothing to do with the development or the carrying out of the policies of previous generations and previous Governments have difficulty explaining, first of all, to themselves and then to others in general conversation why they should feel responsible for those mistakes made by people of other generations who were in positions of power that they did not share. They are now starting to look at the content of the debate. Hopefully, as I put the position on the Hanson factor when it first developed, if there are enough people in leadership positions within the community, including members of Parliament, who are prepared to apologise to the current generation of Aboriginal people for the mistakes made by previous generations of decision makers, then they are prepared to look at their role and responsibility in accepting the apologies that are made on their behalf by their elected representatives.

If the level of debate and the consensus that we can gather, if only for the children who have been separated from birth or through their younger teenage years, at least assists in the process of reconciliation, we may be able to get the rest of Australia to look at that as a major issue separating Aboriginal development from their own. In many cases white Australians look at Aboriginal health, Aboriginal welfare and Aboriginal development as somehow or other being equated with and equal to their own circumstance, on the basis that the circumstance in which Aboriginal people find themselves is no different from the circumstance in which they find themselves. But, if you look much more closely and examine the arguments and the circumstance from which many Aboriginal people develop—for example, their birth, their heritage, their social circumstance, the financial unit in which they are raised and the fact that they see themselves as the owners of Australia who were displaced by colonisers—for them to be in a position where they can develop as equals becomes the arguable point.

I argue as best I can with people who have no malice, who are not racist and who try to equate their own poor circumstance with the poor circumstances in which Aboriginal people find themselves. If you can at least describe those circumstances and say that you had the opportunity, that you were raised in a family unit which was deprived of financial and economic opportunity through being working class or unemployed class, you can get some measure of sympathy and support for those Aboriginal people who find themselves in the position of starting well behind the eight ball in relation to equality of opportunities as they develop through their life.

I also explain, without being too presumptuous or patronising, that few Aboriginal people can pass on inheritances of anything. Few Aboriginal people own their own homes or their own cars. They start off from a generation of poverty and it is very difficult for them to rise above it. You add to that the problems associated with forced separation, the mental health as described by the Hon. Mr Crothers, and the deprivation that comes from poor health and diet and you have the basis for a class of people, a race of people, who are very patient because, if I were placed in those same circumstances, I would not be as patient as they are. As a race of people, we as Australians should be very grateful that they are dealing with their circumstances in the way that they are dealing with them. They are not a group or race of people who are violent, in the main. Most of the violence they inflict is upon themselves through the abuse of alcohol, which comes from lack of opportunity, and it is up to us to address those social questions in a different way.

The motion is one small piece of the jigsaw puzzle and we as elected representatives of all Australians in this Chamber can support the content of this motion. We can only hope then that the Aboriginal people of South Australia in particular, to whom this motion is addressed, can find in their hearts an amount of sympathy and symbiotic support with us and hope that they accept it. It is easy for us to move motions, put words to paper and have *Hansard* report them, but it needs a lot more than words on paper and a lot more than motions: it needs a total commitment to try to work our way through all the problems associated with the well-being of future Aboriginal generations. Let us all join together to apologise for the circumstances in which previous generations of Aboriginal people found themselves.

If my predecessors and ancestors had been treated as the Western Australian Aboriginals, who were treated like criminals just for being born and residing on lands that pastoralists and mining companies wanted, forced into chains, locked up, put into makeshift prisons and forced into slave labour, moved out of their geographical regions and had their children taken away, I am sure that I would have an axe to grind.

Each State had its own, different way of dealing with it. South Australia set up regional communities for Aboriginal people and then, through the assimilation policy, moved those Aboriginal families out into wider communities so that they were separated even from those support groups. In a lot of cases, they are now struggling with employment opportunities in those outer regional areas.

Our responsibility is to look at policy development in a tripartite way that increases opportunities for Aboriginal people. We certainly have to look at the Mabo and Wik decisions in a practical, commonsense way that allows some justice to be delivered. We also have to look after those urban Aboriginal people who will be looking for work opportunities in regional cities and in the metropolitan area.

With that caveat or explanation, I support the motion. I hope that, once the acceptance of our position in relation to the apology is accepted by Aboriginal people, we can all move forward and look after future generations of Aboriginal people and all other Australians, to develop one nation, not of Pauline Hanson's making but of all decent people's creation and vision.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contribution to the debate. Because I have already spoken, the only point that I want to make is that the interpretation of the wording of the motion, as indicated by the Hon. Terry Roberts, is certainly the interpretation that the Government places on the motion that is before the Council. It was not intended to be interpreted in the way it was by the constituent who spoke to the Hon. Sandra Kanck, and I thank the Hon. Terry Roberts for indicating his own interpretation. That is my interpretation, and I found it hard to understand how it could be interpreted any other way. However, when the Hon. Sandra Kanck explained her constituent's views, I at least understood the position that was put, although I do not

think it could be reasonably interpreted that way as an intention of this Government or Parliament. With those remarks, I thank all members who spoke on the motion and for their indication that it will be supported by all three Parties represented in this Chamber.

Motion carried.

JURIES (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Juries Act 1927. Read a first time.

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

That this Bill be now read a second time.

This Bill makes minor, uncontroversial amendments to the Juries Act 1927, which I will refer to as 'the Act'. The provisions of this Bill repeal outdated and cumbersome procedural provisions so that the Act or regulations made under the Act will reflect the current practices of jury management and other miscellaneous amendments.

New section 12(1a) requires the Commissioner of Police, on the sheriff's request, to assist the sheriff in determining whether or not a person is disqualified from jury service. In practical terms, in order to check compliance with section 12 of the Act, which disqualifies persons from performing jury duty if they possess a specified criminal history, the Commissioner of Police's assistance is necessary. The police are in the best position to access this information. While the Commissioner of Police already gives such assistance in practice, the practice has no legislative backing. As a result, it is possible that the disclosure of a person's status which disqualifies him or her from jury service may breach the Privacy Principles. One option to overcome this problem would be to require all potential jurors to sign a release which allows the police to give the sheriff information regarding a person's criminal history. However, this would be costly and time consuming. The preferred option is to legislate to require the Commissioner of Police to release information regarding a person's criminal history. This option is the least costly or time consuming, and overcomes possible breaches of the Privacy Principles.

Sections 16 to 19 of the Act are replaced by a provision which will have the effect of increasing the sheriff's powers to excuse jurors or prospective jurors from attendance in compliance with their summons. Currently, section 16 of the Act allows the sheriff to excuse proposed jurors from compliance with their summonses. However, the sheriff is unable to excuse a juror from jury duty after the juror has been sworn in. A juror, who applies to be released from compliance with the summons once the juror has been sworn in, can only be released by a judge who gains this power from section 32(6) of the Act coupled with the common law power of a judge to excuse generally.

Although a judge has the power to defer a juror's jury service to another month which the juror prefers within the next 12 months under section 18(1) of the Act, the sheriff does not possess such a power. However, the ability to negotiate the month of service is important because it enables the court system to be flexible, and recognises the difficulties faced by some citizens who are co-opted into serving in it. Given that it is the responsibility of the sheriff to deal with the day to day management of jurors, the inability of the sheriff to excuse jurors who have been sworn in, or to defer a prospective juror's jury service is inefficient, and it causes the judge to be involved in the minor matters of jury management.

New section 16 gives the sheriff and a judge the power to excuse jurors and defer jury service on application of the juror or potential juror until the juror is serving in a criminal trial. It will also place the provisions regarding excusing jurors or prospective jurors prior to empanelment in a criminal inquest into one provision.

Currently, the sheriff prepares the annual jury list with the assistance of the Electoral Commissioner. Jury summonses are issued, and applications for deferrals and excusals are considered, followed by the issue of replacement summonses if required. The potential jurors are divided into sections, by ballot. However, it is proposed that this function be conducted by computer selection. Only sufficient sections are called in on any one day. Jury sections may be combined to become temporary sections. Once jurors are released from their trial they return to their jury section, and attend for further service next time their section is required. At the end of the jury service, all jurors not previously excused by direction of a judge are released from further attendance. This procedure is an efficient and effective method of jury management, yet some elements of this practice are not prescribed in the legislation. Clause 5 repeals the obsolete provisions in section 32 so that an accurate reflection of the court procedure can be enacted, and by placing the procedures in the regulations, it will allow for greater flexibility in court procedures.

The amendment to Schedule 3 is a result of recent outsourcing of some tasks related to the handling of prisoners. At present, 'persons employed in a department of the Government whose duties of office are connected with the investigation of offences, the administration of justice, or the punishment of offenders' are ineligible for jury service.

However, the outsourcing of some tasks related to the handling of prisoners means that some persons employed in this area will be eligible for jury service as they are not employed by a Government department. The amendment will ensure that persons traditionally ineligible for jury service will remain ineligible. A general registration-making power has been inserted for flexibility as well as being necessary for the proposed amendment to schedule 3. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

This Bill makes minor, uncontroversial amendments to the *Juries Act 1927* ('the Act').

The provisions of this Bill repeal outdated and cumbersome procedural provisions so that the Act or regulations made under the Act will reflect the current practices of jury management and other miscellaneous amendments.

New section 12(1a) requires the Commissioner of Police, on the sheriff's request, to assist the sheriff in determining whether or not a person is disqualified from jury service. In practical terms, in order to check compliance with section 12 of the Act, which disqualifies persons from performing jury duty if they possess a specified criminal history, the Commissioner of Police's assistance is necessary. The police are in the best position to access this information. While the Commissioner of Police already gives such assistance in practice, the practice has no legislative backing. As a result, it is possible that the disclosure of a person's status which disqualifies him or her from jury service may breach the Privacy Principles. One option to overcome this problem would be to require all potential jurors to sign a release which allows the police to give the sheriff information regarding a person's criminal history. However, this would be costly and time consuming. The preferred option is to legislate to require the Commissioner of Police to release information regarding a person's criminal history. This option is the least costly

or time consuming, and overcomes possible breaches of the Privacy Principles.

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A general regulation making power has been inserted for flexibility, as well as being necessary for the proposed amendment to Schedule 3.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment of s. 12—Disqualification from jury service

The amendment requires the police to investigate the criminal record of potential jurors.

Clause 4: Substitution of ss. 16 to 19

New section 16 brings together the powers of a judge or sheriff to excuse prospective jurors or jurors. The sheriff's power is expanded but is subject to review by a judge.

The power of a judge to excuse a jury who is serving on a jury in the course of a criminal inquest remains regulated by section 56.

Clause 5: Substitution of s. 32

The substituted section allows the processes for establishing and regulating jury panels to be governed by regulations.

Clause 6: Insertion of s. 93

The new section provides general regulation making power.

Clause 7: Amendment of Schedule 3

The amendment adds to the list of persons excused from jury service certain persons employed by a prescribed body to cater for outsourcing relating to the administration of justice.

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

COOPERATIVES BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to provide for the formation, registration and management of cooperatives; to amend the Security and Investigation Agents Act 1995; to repeal the Cooperatives Act 1983; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

In view of the hour, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The purpose of this Bill is to provide a consistent legislative framework for the formation, registration and corporate governance of co-operatives, and to repeal the *Co-operatives Act 1983*.

The Governments of the States and Territories have for some time been considering proposals for uniform legislation for co-operatives in Australia. A concern has been that the legislation for co-operatives does not facilitate interstate trading and fundraising by co-operatives.

The South Australian Co-operatives Act does not recognise the interstate activities of co-operatives. Also, a co-operative is subject to the *Corporations Law* prospectus provisions if it wishes to raise funds outside of South Australia. This can be a complex and expensive process if a co-operative wishes to extend its membership base outside of South Australia.

Earlier proposals for uniformity were initiated by New South Wales and focussed on a mutual recognition approach. These proposals were not proceeded with because they did not provide for an acceptable measure of State accountability in relation to interstate co-operatives trading in a host jurisdiction.

Early last year, Victoria advised that it proposed to draft new co-operatives legislation for intended introduction during its Spring 1996 Sitting, based as uniformly as possible on the New South Wales co-operatives legislation. Subsequently Victoria proposed that the States participate in a uniform scheme for co-operatives, by the making and maintaining of consistent legislation based on the core provisions of the proposed Victorian legislation.

Most jurisdictions have participated in the development of the Victorian legislation, and have demonstrated considerable co-operation in the compromises necessary to settle it. All South Australian active co-operatives were provided with an exposure draft of the Victorian Bill for comment before its introduction on the basis that it could serve as the model for proposed consistent legislation in South Australia.

The Victorian Co-operatives Act was passed on 10 December 1996 and is expected to commence operation on 1 August 1997. A number of jurisdictions are committed to the making of legislation in the next few months based on the Victorian Act, with a view to commencement on 1 August 1997 or as soon as possible thereafter. The Northern Territory has secured passage of its consistent legislation.

The South Australian Bill is consistent with the Victorian Act. In following the New South Wales Co-operatives Act, it will provide for a more up-to-date system of corporate governance, and a strengthening of the regulator's role. This is also necessary to achieve an acceptable interface of the legislation with the *Corporations Law*.

If South Australia does not participate by making consistent legislation, it will disadvantage South Australian co-operatives by severely limiting the ability to procure foreign registration in a host jurisdiction. It could also result in the Commonwealth not excluding South Australian co-operatives from the scope of the fundraising provisions of the *Corporations Law*.

There are many positive aspects to the legislation. The key elements of the Bill are as follows:

· The Bill provides that incorporation as a co-operative is a right available to any group wishing to have the benefits of co-

operation and willing to abide by traditional co-operative principles.

- The powers of a co-operative are clearly stated. Such powers may be exercised both within and outside the State.
- The rules of a co-operative must provide for a grievance procedure in relation to disputes and application may also be made to the Supreme Court to settle disputes. Remedies are provided for in relation to oppressive conduct of affairs, similar to those in the *Associations Incorporation Act 1985*.
- The Bill includes active membership requirements. This arises from the co-operative principle of member economic participation and ensures that only those members actively participating in the affairs of a co-operative may control the co-operative. These provisions assist co-operatives to manage takeover risks, and also have relevance to the fundraising provisions of the Bill, such that the level of disclosure to members in relation to various proposals is less than to non-members.
- Provision is made for the issue of shares, the disclosure of beneficial and non-beneficial interest in shares, and the procedure involved in the transfer or repurchase of shares. Part of the interface arrangements with the Commonwealth has an effect that shares may not be held by non-members.
- Each active member of a co-operative has only 1 vote. At least 2 co-operatives currently have rules first registered under the repealed Industrial and Provident Societies Act which depart from this principle. Transitional provisions will allow these rules to continue for 2 years after commencement.
- The legislation requires a special postal ballot to be held in relation to any proposals for a conversion of a share capital co-operative to a non-share capital co-operative, a transfer of incorporation, a sale of major assets, and a takeover, merger or a transfer of engagements.
- Provisions relating to the management and administration of co-operatives have been enhanced so as to provide for similar general standards as those applying to directors of corporations. A specific insolvent trading offence is included which places an obligation on directors not to incur debts if insolvency is expected.
- The regulations may make provision in relation to any matter provided for in the accounts and audit requirements of the *Corporations Law*, the application of accounting standards, and requiring the submission of accounts to the Australian Accounting Standards Board.
- New co-operatives will not be able to accept deposits. However, deposit taking for existing co-operatives will be permitted if the co-operative had a specific deposit taking power in its rules before commencement. Offers to non-members of debentures and subordinated debt, whether intrastate or interstate, will require a *Corporations Law* style prospectus to be registered by the Commission. In relation to fundraising in the form of non-share securities offered to members, or to members and employees, a reduced disclosure regime will apply. In such circumstances, the Commission will have to approve a disclosure statement before the issue of the securities.
- The Bill provides for accountability to, and protection for, members of trading co-operatives in connection with the control and possible takeover of co-operatives generally based on selected provisions of the *Corporations Law* relating to acquisitions of shares. The making of an offer to purchase a co-operative's shares in certain circumstances will not be able to proceed without approval by special resolution held by special postal ballot, and approval by the Commission. Other provisions prohibit reckless, manipulative or irresponsible public announcements, and require additional disclosure in respect of an offer to purchase shares in a co-operative relating to a proposal for registration of the co-operative as a company. A 20% relevant interest will apply as a limitation of shareholding and the limit may be increased by order of the Commission.

  It may also be increased for particular holdings if approved by special resolution held by special postal ballot. If the interest is held by other than a co-operative, the approval of the Commission will be required.
- Voluntary mergers, transfers of engagements and conversions to companies are catered for and include requirements for adequate disclosure of the proposal with a disclosure statement to be approved by the Commission. A transfer of engagements to a co-operative may be directed by the Commission but only with the approval of the Minister.
- The provisions of the *Corporations Law* relating to "voluntary administration" which have been in operation since 1993 are adopted in relation to co-operatives. These provide for the affairs of an insolvent or near insolvent co-operative to be administered in a way that maximise the chances of the co-operative or its business continuing in existence, free of mandatory Court involvement except in a supervisory jurisdiction. In addition to voluntary administration, the Commission will be able to appoint an administrator, upon which the directors will cease to hold office during the period of administration. The grounds for such appointment are similar to those for a winding up by the Commission or a directed transfer of engagements.
- There are provisions in relation to foreign co-operatives similar to corresponding provisions in the Financial Institutions and proposed Friendly Societies (South Australia) Codes. A foreign co-operative will not be able to carry on business in South Australia unless it is registered under the South Australia Act. A foreign co-operative so registered will be subject to at least the core consistent provisions which are to be prescribed. Reciprocal arrangements will apply in the consistent legislation of participating jurisdictions. Provision has also been included for a South Australian co-operative and a foreign co-operative to consolidate all or any of their assets, liabilities and undertakings by way of merger or transfer of engagements.
- External administration provisions are similar to those in the Financial Institutions and proposed Friendly Societies (South Australia) Codes. The Commission is given powers of inspection and special investigation similar to powers in the current Act.
- Savings and transitional provisions provide for the transition between the requirements of the current Act and the proposed legislation.

A significant number of co-operatives operate in the agricultural sector and in many instances a member's livelihood is related to a co-operative's viability. The South Australian Government is supportive of the objective of maintaining viable co-operatives which can contribute to the progress of the South Australian economy and which provide an alternative democratic structure to companies.

The Co-operative Federation of South Australia is very supportive of the proposals.

I commend the Bill to the House.

Explanation of Clauses

PART 1

PRELIMINARY

DIVISION 1—INTRODUCTORY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of the measure on a day to be fixed by proclamation.

Clause 3: Objects of this Act

This clause sets out the objects of the measure.

DIVISION 2—INTERPRETATION

Clause 4: Definitions

This clause defines terms used in the measure.

Clause 5: Qualified privilege

This clause defines "qualified privilege".

DIVISION 3—THE CO-OPERATIVE PRINCIPLES

Clause 6: Co-operative principles

This clause sets out the co-operative principles.

Clause 7: Interpretation to promote co-operative principles

This clause provides that the measure is to be interpreted so as to promote the co-operative principles.

DIVISION 4—APPLICATION OF CORPORATIONS LAW

Clause 8: Corporations Law applying under its own force

This clause describes the provisions of the *Corporations Law* that apply under their own force to co-operatives.

Clause 9: Corporations Law adopted by this Act or the regulations

This clause provides that a provision of the *Corporations Law* may be adopted, with or without specified modifications, by this measure or the regulations.

Clause 10: Interpretation of adopted provisions of Corporations Law

This clause provides that provisions of the *Corporations Law* adopted by this measure apply with any modifications that may be necessary or appropriate for the effectual application of the provisions to co-operatives.

Clause 11: Implied adoption of regulations and other provisions of Corporations Law

This clause provides for the implied adoption of regulations and other provisions of the *Corporation Law* arising from the application of a provision of the *Corporations Law* to co-operatives.

Clause 12: Effect of amendments to adopted provisions of Corporations Law

This clause provides for the effect of amendments to provisions of the *Corporations Law* applied to a co-operative.

PART 2

FORMATION

DIVISION 1—TYPES OF CO-OPERATIVES

Clause 13: Types of co-operatives

This clause provides that a co-operative registered under this measure may be either trading or non-trading.

Clause 14: Trading co-operatives

This clause requires a trading co-operative to have a share capital and a minimum number of members.

Clause 15: Non-trading co-operatives

This clause provides that a non-trading co-operative may or may not have a share capital, but must not give returns or distributions on surplus or share capital other than the nominal value of shares (if any) on winding up.

DIVISION 2—FORMATION MEETING

Clause 16: Formation meeting

This clause provides that a formation meeting must be held before a proposed co-operative can be registered, and specifies the matters that must be considered at the meeting and the persons who must attend the meeting.

DIVISION 3—APPROVAL OF DISCLOSURE STATEMENT AND RULES

Clause 17: Approval of disclosure statement

This clause provides that a draft disclosure statement of a proposed trading co-operative must be submitted to the Corporate Affairs Commission at least 28 days before the formation meeting is due to be held. If the Commission does not otherwise notify the person who submitted the draft disclosure statement at least 5 days before the formation meeting is due to be held, the Commission is to be considered to have approved the statement.

Clause 18: Approval of rules

This clause provides that a draft of the rules proposed for the co-operative must be submitted to the Commission at least 28 days before the formation meeting is due to be held. The Commission may approve or refuse to approve the rules and must give notice in writing of its decision to the person who submitted the draft rules.

DIVISION 4—REGISTRATION OF PROPOSED CO-OPERATIVE

Clause 19: Application for registration of proposed co-operative

This clause deals with the making of an application for registration of a proposed co-operatives.

Clause 20: Registration of co-operative

This clause deals with the registration of co-operatives.

Clause 21: Incorporation and certificate of registration

This clause provides that the incorporation of a co-operative takes effect on the registration of the co-operative.

DIVISION 5—REGISTRATION OF AN EXISTING BODY CORPORATE

Clause 22: Existing body corporate can be registered

This clause provides that a body corporate may apply to the Commission to be registered as co-operative under the Act.

Clause 23: Formation meeting

This clause provides for the holding of a formation meeting by a body corporate, at which a special resolution approving of the proposed registration must be passed.

Clause 24: Application for registration

This clause deals with the making of an application for registration of a body corporate as a co-operative.

Clause 25: Requirements for registration

This clause deals with the registration of a body corporate as a co-operative under this Division.

Clause 26: Certificate of registration

This clause requires the Commission to issue a certificate of registration to a body corporate that has been registered as a co-operative and publish notice of the issue of the certificate in the *Gazette*.

Clause 27: Effect of registration

This clause describes the effect of registration and incorporation of a body corporate as a co-operative.

DIVISION 6—CONVERSION OF CO-OPERATIVE

Clause 28: Conversion of co-operative

This clause provides that a co-operative may convert from a co-operative with share capital to one without share capital (or vice versa) or from trading to non-trading (or vice versa).

DIVISION 7—APPEALS

Clause 29: Appeal against refusal to approve disclosure statement

This clause provides that the person who submitted a draft disclosure statement to the Commission may appeal to the District Court if the Commission refuses or fails to approve the statement.

Clause 30: Appeal against refusal to approve draft rules

This clause provides that the person who submitted draft rules to the Commission may appeal to the District Court if the Commission refuses or fails to approve the rules.

Clause 31: Appeal against refusal to register

This clause provides that the applicants for registration of a proposed co-operative may appeal to the District Court if the Commission refuses or fails to register the co-operative.

Clause 32: Commission to comply with Court determination

This clause provides that the Commission must comply with a determination of the District Court under this Division.

DIVISION 8—GENERAL

Clause 33: Stamp duty exemption for certain co-operatives

This clause provides a stamp duty exemption for certain co-operatives.

Clause 34: Acceptance of money by proposed co-operative

This clause requires money accepted by a proposed co-operative to be held on trust until the co-operative is registered, and to be returned if the proposed co-operative is not registered within 3 months of acceptance of the money.

Clause 35: Issue of duplicate certificate

This clause provides for the issuing by the Commission of a duplicate certificate of registration under certain circumstances.

PART 3

LEGAL CAPACITY AND POWERS

DIVISION 1—GENERAL POWERS

Clause 36: Effect of incorporation

This clause describes the effect of incorporation on a co-operative.

Clause 37: Power to form companies and enter into joint ventures

This clause provides that, in addition to other powers, a co-operative has power to form companies and enter into joint ventures.

DIVISION 2—DOCTRINE OF ULTRA VIRES ABOLISHED

Clause 38: Interpretation

This clause provides guidance in the interpretation of this Division.

Clause 39: Doctrine of ultra vires abolished

This clause provides that the objects of this Division are to provide that the doctrine of *ultra vires* does not apply to co-operatives and to ensure that a co-operative's officers and members give effect to the provisions of the co-operative's rules relating to the primary activities or powers of the co-operative.

Clause 40: Legal capacity

This clause provides that a co-operative has the legal capacity of a natural person and specifies certain particular powers of co-operatives.

Clause 41: Restrictions on co-operatives in rules

This clause provides that a co-operative's rules may contain restrictions or prohibitions on the exercise by the co-operative of a power, and that the clause is contravened if a co-operative exercises a power contrary to an express restriction or prohibition in its rules.

Clause 42: Results of contravention of restriction in rules

This clause provides that the exercise of a power or the doing of an act in contravention of clause 41 is not invalid merely because of the contravention.

DIVISION 3—PERSONS HAVING DEALINGS WITH CO-OPERATIVES

Clause 43: Assumptions entitled to be made

This clause provides that a person is entitled to make the assumptions in clause 44 in relation to dealings with a co-operative and persons who have or purport to have acquired title to property from a co-operative.

Clause 44: Assumptions

This clause specifies the assumptions which a person is entitled to make, as provided by clause 42.

Clause 45: Person who knows or ought to know is not entitled to make assumptions

This clause provides that a person who knows or ought to know that an assumption is incorrect is not entitled to make that assumption.

Clause 46: Lodgment of documents not to constitute constructive knowledge

This clause provides that a person is not to be considered to have constructive knowledge of documents (other than those relating to registrable charges) lodged with the Commission.

Clause 47: Effect of fraud

This clause provides that a person's entitlement to make assumptions under this Division is not affected by the fraudulent conduct of, or forgery by, a person, unless the person attempting to rely on the assumption has actual knowledge of the fraudulent conduct or forgery.

DIVISION 4—AUTHENTICATION AND EXECUTION OF DOCUMENTS AND CONFIRMATION OF CONTRACTS

Clause 48: Common seal

This clause provides that a document or proceeding requiring authentication by a co-operative may be authenticated under the common seal of the co-operative.

Clause 49: Official seal

This clause provides that a co-operative may have one or more official seals, each of which must be a facsimile of the co-operative's common seal, to be used in place of its common seal outside the State where the common seal is kept.

Clause 50: Authentication need not be under seal

This clause provides that a document or proceeding may be authenticated by the signature of a director and a director or officer of a co-operative, and need not be under seal.

Clause 51: Co-operative may authorise person to execute deed

This clause provides that a co-operative may authorise a person as its agent or attorney to execute deeds on its behalf.

Clause 52: Execution under seal

This clause provides for the validity of documents executed under seal where a person attesting the affixing of the seal was in any way interested in the matter contained in the document.

Clause 53: Contractual formalities

This clause provides that a person acting under the authority of a co-operative may make, vary or discharge a contract on behalf of the co-operative.

Clause 54: Other requirements as to consent or sanction not affected

This clause provides that this Division does not affect other legal requirements as to consent or sanction in relation to contractual procedures.

Clause 55: Transitional

This clause provides for the transitional operation of this Division.

DIVISION 5—PRE-REGISTRATION CONTRACTS

Clause 56: Contracts before registration

This clause provides for the entering into on behalf of a proposed co-operative, and the later ratification by a co-operative, of pre-registration contracts.

Clause 57: Persons may be released from liability but is not entitled to indemnity

This clause provides that the person who entered into the pre-registration contract may be released from liability but is not entitled to an indemnity.

Clause 58: This Division replaces other rights and liabilities

This clause provides that this Division replaces any rights or liabilities anyone would otherwise have in relation to a pre-registration contract.

PART 4
MEMBERSHIP
DIVISION 1—GENERAL

Clause 59: Becoming a member

This clause provides for the admission of persons as members of a co-operative.

Clause 60: Members of associations

This clause provides for the admission of co-operatives and other bodies corporate as members of an association.

Clause 61: Members of federations

This clause provides for membership of a federation.

Clause 62: Qualifications for membership

This clause prescribes qualifications for membership of a co-operative.

Clause 63: Membership may be joint

This clause provides that membership of a co-operative may be joint.

Clause 64: Members under 18 years of age

This clause provides for the membership of a co-operative by natural persons under 18 years of age.

Clause 65: Representatives of bodies corporate

This clause provides that a body corporate that is a member of a co-operative may appoint a person to represent it in respect of its membership.

Clause 66: Notification of shareholders and shareholdings

This clause requires a body corporate that is a member of a co-operative to notify the board of directors of the co-operative (if requested) of the body corporate's shareholders and shareholdings.

Clause 67: Circumstances in which membership ceases—all co-operatives

This clause prescribes the circumstances under which membership of a co-operative ceases.

Clause 68: Additional circumstances in which membership ceases—co-operatives with share capital

This clause provides additional circumstances in which membership of a co-operative with share capital ceases.

Clause 69: Carrying on business with too few members

This clause prescribes the minimum number of members allowed for co-operatives, associations and federations and provides that the directors of a co-operative which carries on business for more than 28 days after the number of members falls below the minimum are guilty of an offence.

DIVISION 2—RIGHTS AND LIABILITIES OF MEMBERS

Clause 70: Rights of membership not exercisable until registered etc.

This clause provides that rights of membership are not exercisable until the member's name appears on the co-operative's register of members and payment is made and shares acquired by the member.

Clause 71: Liability of members to co-operative

This clause describes the liability of members of a co-operative.

Clause 72: Co-operative to provide information to person intending to become a member

This clause requires the board of a co-operative to provide certain information to each person intending to become a member of the co-operative.

Clause 73: Entry fees and regular subscriptions

This clause provides that the rules of a co-operative may require the payment by members of entry fees and regular subscriptions.

Clause 74: Members etc. may be required to deal with co-operative

This clause provides that the rules of a co-operative may contain provisions requiring members to have any specified dealings with the co-operative for a fixed period, such as the sale of products through or to the co-operative or obtaining supplies or services through or from the co-operative.

Clause 75: Fines payable by members

This clause provides for the imposition of a fine by a co-operative on a member for any infringement of the rules of the co-operative, if the rules of the co-operative so provide.

Clause 76: Charge and set-off of co-operative

This clause provides for charges on certain property of members and ex-members where a debt is owed to a co-operative, and the set off of any amount paid towards satisfaction of that debt.

Clause 77: Repayment of shares on expulsion

This clause provides for the repayment of the amount paid up on a member's shares when the member is expelled from the co-operative.

DIVISION 3—DEATH OF MEMBER

Clause 78: Meaning of "interest

This clause defines a deceased member's "interest" for the purposes of this Division.

Clause 79: Transfer of share or interest on death of member

This clause provides for the transfer of a member's shares or interest in a co-operative on the death of the member.

Clause 80: Transfer of small shareholdings and interests on death

This clause provides for the transfer of a member's shares or interest in a co-operative on the death of the member, where the total value of the shares or interest is less than $10 000 (or such other amount as prescribed).

Clause 81: Value of shares and interests

This clause provides that the value of the shares or interest of a deceased member is to be determined for the purposes of this Division in accordance with the rules of the co-operative.

Clause 82: Co-operative protected

This clause provides that any transfer of property made by the board of a co-operative in accordance with this Division is valid and effectual against any demand made on the co-operative by any other person.

DIVISION 4—DISPUTES INVOLVING MEMBERS

Clause 83: Grievance procedure

This clause requires the rules of a co-operative to provide for a grievance procedure, which must allow for the application of natural

justice, for dealing with disputes under the rules between members and the co-operative and between members of the co-operative.

Clause 84: Application to Supreme Court

This clause provides that a member of a co-operative may make application to the Supreme Court for an order declaring and enforcing the rights or obligations of members or the co-operative.

DIVISION 5—OPPRESSIVE CONDUCT OF AFFAIRS

Clause 85: Interpretation

This clause provides for an extended definition of "member" for the purposes of this Division.

Clause 86: Application of Division

This clause provides that this Division does not apply in respect of anything done under or for the purposes of Part 6 (Active membership).

Clause 87: Who may apply for court order?

This clause specifies who may apply to the Court for an order under this Division.

Clause 88: Orders that the Supreme Court may make

This clause provides that the Court may make any order it thinks fit in respect of an application under this Division, including but not limited to the orders specified.

Clause 89: Basis on which Supreme Court makes orders

This clause describes the basis on which the Court may make orders under this Division.

Clause 90: Winding up need not be ordered if oppressed members prejudiced

This clause provides that the Court need not make an order for the winding up of a co-operative if the winding up would unfairly prejudice an oppressed member.

Clause 91: Application of winding up provisions

This clause provides for the application of the winding up provisions of the Act where an order for winding up is made by the Court under this Division.

Clause 92: Changes to rules

This clause provides for the effect of an alteration of a co-operative's rules resulting from an order of the Court under this Division.

Clause 93: Copy of order to be lodged with Commission

This clause requires an applicant for an order under this Division to lodge a copy of the order with the Commission within 14 days after it is made.

DIVISION 6—PROCEEDINGS ON BEHALF OF A COOPERATIVE BY MEMBERS AND OTHERS

Clause 94: Bringing, or intervening in, proceedings on behalf of a co-operative

This clause specifies who may bring or intervene in proceedings on behalf of a co-operative.

Clause 95: Applying for and granting leave

This clause provides that a person referred to in clause 94 may apply to the Supreme Court for leave to bring or intervene in proceedings, and specifies the circumstances in which the Court must grant the application.

Clause 96: Substitution of another person for the person granted leave

This clause specifies the persons who may apply to the Court for an order that they be substituted for a person to whom leave has been granted under clause 95.

Clause 97: Effect of ratification by members

This clause provides for the effect of a ratification or approval of conduct by members of a co-operative on an application under clause 95.

Clause 98: Leave to continue, compromise or settle proceedings brought, or intervened in, with leave

This clause provides that proceedings brought or intervened in with leave must not be discontinued, compromised or settled without the leave of the Court.

Clause 99: General powers of the Supreme Court

This clause empowers the Court to make orders and give directions in relation to proceedings brought or intervened in under this Division.

Clause 100: Power of Supreme Court to make costs order

This clause empowers the Court to make a costs order in relation to proceedings brought or intervened in with leave under clause 95.

PART 5

RULES

Clause 101: Effect of rules

This clause describes the effect of the rules of a co-operative as a contract under seal between the co-operative and each member, between the co-operative and each director, the principal executive officer and the secretary, and between a member and each other member.

Clause 102: Content of rules

This clause prescribes the required form and content of a co-operative's rules.

Clause 103: Purchase and inspection of copy of rules

This clause provides for the purchase and inspection of a co-operative's rules.

Clause 104: False copies of rules

This clause provides that a person who gives a false copy of the rules of a co-operative to a member or a person intending to become a member is guilty of an offence.

Clause 105: Model rules

This clause provides for the approval of model rules by the Commission by notice published in the *Gazette*.

Clause 106: Rules can only be altered in accordance with this Act

This clause provides that the rules of a co-operative cannot be altered except in accordance with this measure.

Clause 107: Approval of alteration of rules

This clause provides that a proposed alteration of a co-operative's rules must be approved by the Commission before the passing of the resolution to alter the rules.

Clause 108: Alteration by special resolution

This clause provides that the rules of a co-operative must be altered by special resolution unless otherwise specified in this Part.

Clause 109: Alteration by resolution of board

This clause provides that certain alterations to a co-operative's rules may be effected by a resolution passed by the board.

Clause 110: Alteration does not take effect until registered

This clause provides that an alteration of a co-operative's rules does not take effect unless and until it is registered by the Commission.

Clause 111: Appeal against refusal to approve alteration

This clause provides for an appeal to the District Court against refusal by the Commission to approve an alteration to a co-operative's rules.

Clause 112: Appeal against refusal to register alteration

This clause provides for an appeal to the District Court against refusal by the Commission to register an alteration to a co-operative's rules.

Clause 113: Registrar to comply with Court determination

This clause requires the Commission to comply with a determination of the District Court on an appeal under this Part.

PART 6

ACTIVE MEMBERSHIP

DIVISION 1—DEFINITIONS

Clause 114: Primary activity—meaning

This clause defines the expression "primary activity".

Clause 115: What is active membership?

This clause defines "active membership" for the purposes of the Act.

Clause 116: What are active membership provisions and resolutions?

This clause defines what active membership provisions and resolutions are.

DIVISION 2—RULES TO CONTAIN ACTIVE MEMBERSHIP PROVISIONS

Clause 117: Number of primary activities required

This clause states that a co-operative must have at least one primary activity.

Clause 118: Rules to contain active membership provisions

This clause requires the board of a co-operative to ensure that the rules of the co-operative contain active membership provisions in accordance with this Part.

Clause 119: Factors and considerations for determining primary activities

This clause specifies the factors and considerations for determining which of a co-operative's activities are its primary activities, and for determining an appropriate activity test in relation to each primary activity.

Clause 120: Active membership provisions—trading co-operatives

This clause provides for the active membership provisions required for trading co-operatives.

Clause 121: Regular subscription—active membership of non-trading co-operative

This clause provides that payment of a regular subscription is an adequate active membership requirement for a non-trading co-operative.

DIVISION 3—ACTIVE MEMBERSHIP RESOLUTIONS

Clause 122: Notice of meeting

This clause provides for the giving of notice of a meeting at which an active membership resolution is to be proposed.

Clause 123: Eligibility to vote on active membership resolution

This clause specifies which members are eligible to vote on an active membership resolution.

Clause 124: Eligibility of directors to vote on proposal at board meeting

This clause specifies which directors are eligible to vote at a board meeting on a proposal to submit an active membership resolution to a meeting of the co-operative.

Clause 125: Other entitlements of members not affected

This clause provides that this Division does not affect other entitlements of members.

DIVISION 4—CANCELLATION OF MEMBERSHIP OF INACTIVE MEMBERS

Clause 126: Cancellation of membership of inactive member

This clause provides for the cancellation of the membership of an inactive member.

Clause 127: Share to be forfeited if membership cancelled

This clause provides that the shares of a member are to be forfeited at the same time as the member's membership is cancelled under clause 126.

Clause 128: Failure to cancel membership—offence by director

This clause provides that failure by the board of a co-operative to cancel a membership as required by this Part renders a director who did not use all due diligence to prevent that failure guilty of an offence.

Clause 129: Deferral of forfeiture by board

This clause provides that cancellation of a membership may be deferred by the board for periods up to 12 months.

Clause 130: Cancellation of membership prohibited in certain circumstances

This clause provides that cancellation of a member's membership is prohibited in certain specified circumstances.

Clause 131: Notice of intention to cancel membership

This clause provides for the giving of notice to a member of the intention to cancel their membership.

Clause 132: Order of Supreme Court against cancellation

This clause empowers the Supreme Court to order against the cancellation of a membership.

Clause 133: Repayment of amounts due in respect of cancelled membership

This clause requires a co-operative to repay certain amounts to a former member or otherwise apply those amounts within 12 months after the cancellation of the former membership.

Clause 134: Interest on deposits and debentures

This clause provides for the accrual of interest when amounts owed to a former member are applied as a deposit with the co-operative or the co-operative allots or issues debentures to the former member in satisfaction of the amount owed.

Clause 135: Repayment of deposits and debentures

This clause provides for the repayment of the deposits and debentures referred to in clause 139.

Clause 136: Register of cancelled memberships

This clause requires a co-operative to keep a register of cancelled memberships.

DIVISION 5—ENTITLEMENTS OF FORMER MEMBERS OF TRADING CO-OPERATIVE

Clause 137: Application of Division

This clause provides that this Division only applies to trading co-operatives.

Clause 138: Former shareholders to be regarded as shareholders for certain purposes

This clause provides that former shareholders are to be regarded as shareholders for certain purposes.

Clause 139: Entitlements of former shareholders on mergers etc.

This clause provides for the entitlements of a former member whose shares have been forfeited within 5 years of a merger of, or a transfer of engagements by, the co-operative of which he/she was a member.

Clause 140: Set-off of amounts repaid etc. on forfeited shares

This clause provides for the set-off of amounts repaid to a person under clause 134 (repayment of amounts due in respect of cancelled membership) or clause 135 (repayment of deposits and debentures) against any entitlement of the person under clause 134.

Clause 141: Entitlement to distribution from reserves

This clause provides for the entitlement of former members to any distribution from the reserves of the co-operative that takes place within 5 years after the person's membership was cancelled.

Clause 142: Registrar may exempt co-operatives from provisions

This clause empowers the Commission to exempt co-operatives from all or some of the provisions of this Division.

PART 7

SHARES

DIVISION—NATURE OF SHARES

Clause 143: Nature of shares in co-operative

This clause describes the nature of a share or other interest in a co-operative.

DIVISION 2—DISCLOSURE

Clause 144: Disclosures to members

This clause requires the board of a co-operative to provide a member with a disclosure statement, in the specified form, before shares are issued to the member.

DIVISION 3—ISSUE OF SHARES

Clause 145: Shares—general

This clause provides for the amount of share capital, the value of shares and the classes of shares of a co-operative, and states that, with certain exceptions, shares must not be issued to a non-member.

Clause 146: Minimum paid-up amount

This clause provides that a share must not be allotted unless at least 10% of the nominal value of the share has been paid.

Clause 147: Shares not to be issued at a discount

This clause states that a co-operative must not issue shares at a discount.

Clause 148: Issue of shares at a premium

This clause provides for the issue of shares at a premium.

Clause 149: Joint ownership of shares

This clause allows joint ownership of shares.

Clause 150: Members may be required to take up additional shares

This clause provides that members may be required to take up additional shares. Clause 156 provides for the issue of bonus shares by a co-operative.

Clause 151: Bonus share issues

This clause places a number of restrictions on the issuing of bonus shares by a co-operative.

Clause 152: Restrictions on bonus shares

This clause specifies the content of the notice which must be given to members of the meeting or postal ballot at which a special resolution is to be proposed for the approval of a bonus share issue.

Clause 153: Notice in respect of bonus shares

This clause provides that notice of non-beneficial ownership of shares (where this is reasonably expected) must be given at the time of the transfer of those shares.

DIVISION 4—BENEFICIAL AND NON-BENEFICIAL INTERESTS IN SHARES

Clause 154: Notice of non-beneficial ownership at time of transfer

This clause provides for the notification of non-beneficial ownership of shares where this was not notified at the time of transfer.

Clause 155: Notice of non-beneficial ownership not notified at time of transfer

This clause provides that, where notice of non-beneficial ownership has been given under clause 154, but on registration of the transfer the transferee holds some or all of those shares beneficially, notice of that fact must be given to the co-operative.

Clause 156: Registration as beneficial owner of shares notified as non-beneficially transferred

This clause requires notification of a change in the nature of a person's shareholding.

Clause 157: Notification of change in nature of shareholding

This clause provides that, for the purposes of this Division, a person is presumed to have been aware of a circumstance of which an employee or agent of the person was aware.

Clause 158: Presumption of awareness

This clause specifies certain circumstances in which non-beneficial ownership of shares will be presumed.

Clause 159: Presumption that shares held non-beneficially

This clause requires the noting of beneficial and non-beneficial interests in a co-operative's register of members.

Clause 160: Noting of beneficial and non-beneficial interests in registers of members

This clause provides for the registration of a trustee, executor or administrator as the holder of a share in a co-operative previously held by a person who has died.

Clause 161: Registration as trustee etc. on death of owner of shares
This clause provides for the registration of an administrator as the holder of a share in a co-operative previously held by a person who has become mentally or physically incapable.

Clause 162: Registration as administrator of estate on incapacity of shareholder
This clause provides for the registration of the Official Trustee in Bankruptcy as the holder of a share in a co-operative previously held by a person who has become bankrupt.

Clause 163: Registration as Official Trustee in Bankruptcy
This clause provides for the registration of an administrator as the holder of a share in a co-operative previously held by a person who has become mentally or physically incapable.

Clause 164: Liabilities of persons registered as trustee or administrator
This clause providers for the liability of persons registered as holders of shares under clauses 161, 162 and 163.

Clause 165: Notice of trusts in register of members
This clause provides for the noting in the register of members, with the consent of the co-operative, of shares held on trust.

Clause 166: No notice of trust as provided by this Division
This clause provides that no notice of a trust is to be entered on a register except as provided in this Division.

DIVISION 5—SALE OR TRANSFER OF SHARES

Clause 167: Sale or transfer of shares
This clause provides for the sale or transfer of shares.

Clause 168: Transfer on death of member
This clause provides for the transfer of shares on the death of a member.

Clause 169: Restriction on total shareholding
This clause places a restriction of 20 per cent (or a lower percentage specified in the rules of a co-operative) on the total shareholding to be held by a shareholder.

Clause 170: Transfer not effective until registered
This clause provides that a transfer of shares is not effective until registered.

DIVISION 6—RE-PURCHASE OF SHARES

Clause 171: Purchase and repayment of shares
This clause provides for the purchase and repayment of shares by a co-operative.

Clause 172: Deposit or debentures in lieu of payment when share repurchased
This clause provides that a co-operative may apply an amount owed under clause 171 as a deposit or allot or issue debentures in satisfaction of the amount.

Clause 173: Cancellation of shares
This clause requires a co-operative to cancel any share purchased by or forfeited to the co-operative.

PART 8
VOTING

DIVISION 1—VOTING ENTITLEMENTS

Clause 174: Application of Part
This clause applies this Part to all voting whether at meetings or in ballots.

Clause 175: Voting
This clause describes a member's right to vote.

Clause 176: Voting by proxy
This clause provides for voting by proxy.

Clause 177: Restriction on voting entitlement under power of attorney
This clause places a restriction on the voting entitlement under a power of attorney.

Clause 178: Restriction on voting by representatives of bodies corporate
This clause places a restriction on voting by representatives of bodies corporate.

Clause 179: Inactive members not entitled to vote
This clause provides that inactive members are not entitled to vote.

Clause 180: Control of the right to vote
This clause prohibits a person from controlling the exercise of the right to vote of a member.

Clause 181: Effect of relevant share and voting interests on voting rights
This clause provides that a member of a co-operative is not entitled to vote if another person has a relevant interest in any share held by the member or in the right to vote of the member.

Clause 182: Rights of representatives to vote
This clause provides for the rights of representatives of members to vote.

Clause 183: Other rights and duties of members not affected by ineligibility to vote
This clause provides that other rights and duties of members are not affected by ineligibility to vote.

Clause 184: Vote of disentitled member to be disregarded
This clause provides that any vote of a disentitled member is to be disregarded.

DIVISION 2—RESOLUTIONS

Clause 185: Decisions to be by ordinary resolution
This clause provides that, except as otherwise provided, decisions by a co-operative are to be determined by ordinary resolution.

Clause 186: Ordinary resolutions
This clause defines "ordinary resolution".

Clause 187: Special resolutions
This clause defines "special resolution".

Clause 188: How majority obtained is ascertained
This clause specifies how a majority obtained at a meeting or by postal ballot is to be ascertained.

Clause 189: Disallowance by Commission
This clause permits the Commission to disallow a proposed special resolution before it is passed.

Clause 190: Declaration of passing of special resolution
This clause provides for proof by declaration of the passing of a special resolution at meetings and by postal ballot.

Clause 191: Effect of special resolution
This clause provides for the date from which special resolutions take effect.

Clause 192: Lodgment of special resolution
This clause requires the lodgment of special resolutions with the Commission for registration.

Clause 193: Decision of Commission on application to register special resolution
This clause requires the Commission to register a special resolution if satisfied of certain matters.

DIVISION 3—POSTAL BALLOTS

Clause 194: Postal ballots
This clause provides for the holding of postal ballots.

Clause 195: Special postal ballots
This clause provides for the holding of special postal ballots.

Clause 196: When is a special postal ballot required?
This clause specifies the circumstances in which a special postal ballot is required.

Clause 197: Holding of postal ballot on requisition
This clause provides for the requisitioning by members of a postal ballot.

Clause 198: Expenses involved in postal ballots on requisition
This clause describes the expenses that are to be considered to constitute the "expenses involved in holding the ballot" for the purposes of clause 197.

DIVISION 4—MEETINGS

Clause 199: Annual general meetings
This clause provides for the holding of annual general meetings by co-operatives.

Clause 200: Special general meetings
This clause provides for the convening of special general meetings.

Clause 201: Notice of meetings
This clause requires the giving of 14 days notice to members of each general meeting.

Clause 202: Quorum of meetings
This clause makes provision for the quorum for a meeting of a co-operative to be specified in its rules and provides that business cannot be transacted without a quorum present.

Clause 203: Decision at meetings
This clause provides for the manner of determining a question for decision at a general meeting.

Clause 204: Convening of general meeting on requisition
This clause provides for the convening of a general meeting on the requisition of at least 20% of members or any lesser percentage specified in the rules.

Clause 205: Minutes
This clause provides for the entering and confirming of minutes of each general meeting, board meeting and sub-committee meeting.

PART 9
MANAGEMENT AND ADMINISTRATION OF COOPERATIVES

DIVISION 1—THE BOARD

Clause 206: Board of directors

This clause provides that the business of a co-operative is to be managed by a board of directors which may exercise all the powers of the co-operative other than those that must be exercised by the co-operative in general meeting.

Clause 207: Election of directors

This clause provides for the election of directors.

Clause 208: Qualification of directors

This clause specifies the qualification of directors.

Clause 209: Disqualified persons

This clause specifies disqualified persons who must not act as a director or directly or indirectly take part in or be concerned with the management of a co-operative.

Clause 210: Meeting of the board of directors

This clause provides for the holding of board meetings.

Clause 211: Transaction of business outside meetings

This clause provides for the transaction of business by the board outside board meetings.

Clause 212: Deputy directors

This clause provides for the appointment of deputy directors.

Clause 213: Delegation by board

This clause allows the board to delegate the exercise of specified functions (other than the power of delegation) to a director or committee.

Clause 214: Removal from and vacation of office

This clause provides for the removal from and vacation of office of a director.

DIVISION 2—DUTIES AND LIABILITIES OF DIRECTORS, OFFICERS AND EMPLOYEES

Clause 215: Meaning of "officer

This clause defines "officer" for the purposes of this Division.

Clause 216: Officers must act honestly

This clause requires officers of co-operatives to act honestly in the exercise of their powers and the discharge of the duties of their office.

Clause 217: Standard of care and diligence required

This clause specifies the standard of care and diligence required of officers of co-operatives.

Clause 218: Improper use of information or position

This clause prohibits the improper use of information or position by officers of co-operatives.

Clause 219: Court may order payment of compensation

This clause empowers a court that convicts a person for contravention of this Division to order payment of compensation by the convicted person to the co-operative.

Clause 220: Recovery of damages by co-operative

This clause provides for the recovery of damages by a co-operative from a person who has contravened this Division, whether or not the person has been convicted of an offence.

Clause 221: Other duties and liabilities not affected

This clause provides that this Division does not affect other legal duties and liabilities relating to a person's office or employment in relation to a co-operative.

Clause 222: Indemnification of officers and auditors

This clause deals with the indemnification of officers and auditors.

Clause 223: Adoption of Corporations Law provisions concerning officers of co-operatives

This clause adopts and applies the provisions of sections 589 to 598 and 1307 of the *Corporations Law* in respect of co-operatives.

DIVISION 3—RESTRICTIONS ON DIRECTORS AND OFFICERS

Clause 224: Directors' remuneration

This clause restricts directors' remuneration to fees, concessions and other-benefits that are approved at a general meeting of the co-operative.

Clause 225: Certain financial accommodation to officers prohibited

This clause prohibits officers from obtaining certain financial accommodation from the co-operative.

Clause 226: Financial accommodation to directors and associates

This clause provides for financial accommodation to directors and associates of directors.

Clause 227: Restriction on directors of certain co-operatives selling land to co-operative

This clause restricts directors of certain co-operatives from selling land to the co-operative.

Clause 228: Management contracts

This clause provides that a co-operative must not enter into a management contract unless that contract has first been approved by special resolution.

DIVISION 4—DECLARATION OF INTERESTS

Clause 229: Declaration of interest

This clause requires directors to declare the nature and extent of any interest in contracts or proposed contracts with the co-operative.

Clause 230: Declarations to be recorded in minutes

This clause requires declarations under this Division to be recorded in the minutes.

Clause 231: Division does not affect other laws or rules

This clause provides that this Division does not affect other laws or rules restricting a director from having any interest in contracts with the co-operative.

Clause 232: Certain interests need not be declared

This clause specifies certain interests which need not be declared.

DIVISION 5—ACCOUNTS AND AUDIT

Clause 233: Requirements for accounts and accounting records

This clause specifies requirements for accounts and accounting records of a co-operative.

Clause 234: Power of Commission to grant exemptions

This clause empowers the Commission to grant exemptions from all or specified provisions of the regulations made for the purposes of this Part.

Clause 235: Meaning of "entity" and "control

This clause defines "entity" and "control" for the purposes of this Division.

Clause 236: Disclosure by directors

This clause requires directors to make certain disclosures required by the regulations.

Clause 237: Protection of auditors etc.

This clause provides qualified privilege for auditors and persons who publish documents prepared by auditors.

Clause 238: Financial year

This clause provides for the financial year of a co-operative.

DIVISION 6—REGISTERS, RECORDS AND RETURNS

Clause 239: Registers to be kept by co-operatives

This clause specifies the registers to be kept by co-operatives.

Clause 240: Location of registers

This clause specifies the required location of a co-operative's registers.

Clause 241: Inspection of registers etc.

This clause provides for the inspection of registers.

Clause 242: Use of information on registers

This clause restricts the use of information contained in a co-operative's registers.

Clause 243: Notice of appointment etc. of directors

This clause requires the giving of notice to the Commission of the appointment of a director, principal executive officer or secretary of the co-operative.

Clause 244: Annual report

This clause requires a co-operative to send to the Commission within the required period in each year an annual report containing specified particulars.

Clause 245: List of members to be furnished at request of Registrar

This clause requires a co-operative to provide a list of members at the request of the Commission.

Clause 246: Special return to be furnished at request of Commission

This clause requires a co-operative to provide a special return at the request of the Commission.

DIVISION 7—NAME AND REGISTERED OFFICE

Clause 247: Name to include certain matter

This clause specifies the required components of a co-operative's name.

Clause 248: Use of abbreviations

This clause allows the use of certain abbreviations in a co-operative's name.

Clause 249: Name to appear on business documents etc.

This clause requires the name of a co-operative to appear on its seal, advertisements and business documents.

Clause 250: Change of name of co-operative

This clause provides for the change of name of a co-operative.

Clause 251: Registered office of co-operative

This clause requires a co-operative to have a registered office.

PART 10

FUNDS AND PROPERTY

DIVISION 1—POWER TO RAISE MONEY

Clause 252: Meaning of obtaining financial accommodation

This clause includes a definition of "financial accommodation" for the purposes of this Division.

Clause 253: Funds to be raised in accordance with Act and regulations

This clause requires fund raising by a co-operative to be in accordance with the measure and regulations.

Clause 254: Limits on deposit taking

This clause restricts the ability to take deposits to those co-operatives which were authorised to do so prior to the commencement of this measure.

Clause 255: Members etc. not required to see to application of money

This clause provides that members are not required to see to the application of money—provided to the co-operative by way of loan or deposit.

Clause 256: Commission's directions re fundraising

This clause empowers the Commission to give directions to a co-operative in relation to the obtaining by the co-operative of financial accommodation.

Clause 257: Subordinated debt

This clause allows a co-operative to incur subordinated debt.

Clause 258: Application of Corporations Law to issues of debentures

This clause provides that the provisions of Parts 1.2A, 7.11 and 7.12 of the *Corporations Law* are adopted and apply to and in respect of debentures of a co-operative, except where an issue of debentures is made by a co-operative solely to members or solely to members and employees.

Clause 259: Disclosure statement

This clause requires a co-operative to provide a disclosure statement, containing the specified matters, where an issue of debentures is solely to members or solely to members and employees of the co-operative.

Clause 260: Approval of board for transfer of debentures

This clause provides that a debenture of a co-operative cannot be sold or transferred except with the consent of the board and in accordance with the rules of the co-operative.

Clause 261: Application of Corporations Law—re-issue of redeemed debentures

This clause adopts and applies section 1051 of the *Corporations Law* in relation to debentures issued by a co-operative to any of its members.

Clause 262: Compulsory loan by member to co-operative

This clause provides that a co-operative may require its members to lend money, with or without security, to the co-operative, in accordance with a proposal approved by special resolution of the co-operative.

Clause 263: Interest payable on compulsory loan

This clause provides for the rate of interest payable on a compulsory loan.

DIVISION 2—CHARGES

Clause 264: Registration of charges

This clause gives effect to Schedule 3 (Registration etc of Charges) and specifies the mortgages, charges and encumbrances to which the Schedule does not apply.

DIVISION 3—RECEIVERS AND OTHER CONTROLLERS OF PROPERTY OF CO-OPERATIVES

Clause 265: Receivers and other controllers of property of co-operatives

This clause gives effect to Schedule 4 (Receivers, and other controllers, of property of co-operatives).

DIVISION 4—DISPOSAL OF SURPLUS FROM ACTIVITIES

Clause 266: Retention of surplus for benefit of co-operative

This clause allows a co-operative to retain all or any part of its surplus for the benefit of the co-operative.

Clause 267: Application for charitable purposes or members' purposes

This clause provides that the rules of a co-operative may authorise the co-operative to apply a specified proportion of its surplus for any charitable purpose and that the rules of a trading co-operative may authorise the co-operative to apply a part of its surplus for supporting any activity approved by the co-operative.

Clause 268: Distribution of surplus or reserves to members

This clause provides for the distribution by a trading co-operative of surplus or reserves to members.

Clause 269: Application of surplus to other persons

This clause provides for the crediting of a part of a co-operative's surplus to a person who is not a member, but is qualified to be a member, by way of rebate in proportion to the business done by him or her with the co-operative.

DIVISION 5—ACQUISITION AND DISPOSAL OF ASSETS

Clause 270: Acquisition and disposal of assets

This clause provides that a co-operative must not do any of the things specified (relating to the acquisition and disposal of assets) except as approved by means of a special postal ballot.

PART 11

RESTRICTIONS ON THE ACQUISITION OF INTERESTS IN CO-OPERATIVES

DIVISION 1—RESTRICTIONS ON SHARE AND VOTING INTERESTS

Clause 271: Application of Part

This clause provides that this Part applies only to trading co-operatives.

Clause 272: Notice required to be given of voting interest

This clause requires a person to give notice to a co-operative of a relevant interest, or the cessation of a relevant interest, in the right to vote of a member of the co-operative.

Clause 273: Notice required to be given of substantial share interest

This clause requires a person to give notice to a co-operative of a substantial share interest, a substantial change in a substantial share interest, or a cessation of a substantial share interest, in the co-operative.

Clause 274: Requirements for notices

This clause specifies the requirements for notices under this Division.

Clause 275: Maximum permissible level of share interest

This clause specifies the maximum permissible level of a relevant interest in shares of a co-operative.

Clause 276: Shares to be forfeited to remedy contravention

This clause provides that shares held in contravention of this Division are declared to be forfeited by the board of the co-operative to the extent necessary to remedy the contravention.

Clause 277: Powers of board in response to suspected contravention

This clause specifies the powers of the board of a co-operative in response to a suspected contravention of clause 272.

Clause 278: Powers of Supreme Court with respect to contravention

This clause specifies the powers of the Supreme Court with respect to a contravention of clause 272.

Clause 279: Co-operative to inform Commission of interest over 20 per cent

This clause requires a co-operative to inform the Commission of a relevant interest which exceeds the maximum permissible level.

Clause 280: Co-operative to keep register

This clause requires a co-operative to keep a register of notifiable interests.

Clause 281: Unlisted companies to provide list of shareholders

This clause requires an unlisted company (within the meaning of the *Corporations Law*) that is a member of a co-operative to furnish to the co-operative a list of the company's shareholders within 28 days after the end of each financial year of the company and within 28 days after a request by the Commission.

Clause 282: Excess share interest not to affect loan liability

This clause provides that an excess share interest does not affect a loan liability of a member.

Clause 283: Extent of operation of Division

This clause describes the extent of the operation of this Division.

Clause 284: Commission may grant exemption from Division

This clause allows the Commission to grant exemptions from the operation of this Division.

DIVISION 2—RESTRICTIONS ON CERTAIN SHARE OFFERS

Clause 285: Share offers to which Division applies

This clause specifies the share offers to which this Division applies.

Clause 286: Requirements to be satisfied before offer can be made

This clause specifies the requirements to be satisfied before an offer to which this Division applies can be made.

Clause 287: Some offers totally prohibited if they discriminate

This clause prohibits certain discriminatory offers.

Clause 288: Offers to be submitted to board first

This clause provides that offers to which this Division applies must first be submitted to the board of the co-operative.

Clause 289: Announcements of proposed takeovers concerning proposed company

This clause prohibits the public announcement of a proposed takeover involving the conversion of a co-operative to a company where the person making the announcement knows that the announcement is false, is recklessly indifferent as to whether it is true or false, or has no reasonable grounds for believing that the performance of obligations arising from the announcement is possible.

Clause 290: Additional disclosure requirements for offers involving conversion to company

This clause specifies additional disclosure requirements for offers involving the conversion of a co-operative to a company.

Clause 291: Consequences of prohibited offer

This clause specifies the consequences of an offer to purchase shares in a co-operative made in contravention of this Division.

Clause 292: Commission may grant exemptions

This clause allows the Commission to grant exemptions from all or specified provisions of this Division.

PART 12

MERGER, TRANSFER OF ENGAGEMENTS, WINDING UP

DIVISION 1—MERGERS AND TRANSFERS OF ENGAGEMENTS

Clause 293: Application of Division

This clause provides that this Division does not apply to a merger or transfer of engagements to which Part 14 (Foreign Co-operatives) applies.

Clause 294: Mergers and transfers of engagements of local co-operatives

This clause provides that any 2 or more co-operatives may consolidate all or any of their assets, liabilities or undertakings by way of merger or transfer of engagements approved under this Division.

Clause 295: Requirements before application can be made

This clause specifies the requirements which must be complied with before an application can be made under this Division.

Clause 296: Disclosure statement required

This clause requires each co-operative to send to each of its members a disclosure statement approved by the Commission at least 21 days before the ballot papers must be returned by members voting in the special postal ballot required by clause 300.

Clause 297: Making an application

This clause provides for the making of an application to the Commission for approval of a merger or transfer of engagements.

Clause 298: Approval of merger

This clause provides that the Commission must approve a merger pursuant to an application under this Division if satisfied of certain specified matters.

Clause 299: Approval of transfer of engagements

This clause provides that the Commission must approve a transfer of engagements pursuant to an application under this Division if satisfied of certain specified matters.

Clause 300: Transfer of engagements by direction of Commission

This clause provides for a transfer of engagements by direction of the Commission.

DIVISION 2—TRANSFER OF INCORPORATION

Clause 301: Application for transfer

This clause provides for an application for transfer of incorporation of a co-operative to a company under the *Corporations Law* or a body corporate that is incorporated, registered pr otherwise established under a law that is prescribed for the purposes of this clause.

Clause 302: Requirements before application can be made

This clause specifies the requirements that must be complied with before an application can be made under clause 301.

Clause 303: Meaning of "new body" and "transfer

This clause defines "new body" and "transfer" for the purposes of this Division.

Clause 304: New body ceases to be registered as co-operative

This clause provides that on the transfer of a co-operative under this Division the co-operative ceases to be registered as a co-operative under this measure.

Clause 305: Transfer not to impose greater liability etc.

This clause provides that a transfer of incorporation under this Division must not impose greater or different liability on the members of the new body who were members of the co-operative.

Clause 306: Effect of new certificate of registration

This clause describes the effect of a new certificate of registration.

Clause 307: New body is a continuation of the co-operative

This clause provides that the new body is the same entity as the body corporate constituted by the co-operative.

Clause 308: Stamp duty

This clause provides that stamp duty previously paid is to be taken into account when assessing the stamp duty payable on an incorporation or registration pursuant to a transfer under this Division.

DIVISION 3—WINDING UP

Clause 309: Methods of winding up

This clause provides that a co-operative may be wound up voluntarily, by the Supreme Court or on a certificate of the Commission.

Clause 310: Winding up on Commission's certificate

This clause provides for winding up on a certificate given by the Commission.

Clause 311: Application of Corporations Law to winding up

This clause provides that the provisions of Parts 5.4 to 5.7 and 9.7 of the *Corporations Law* are adopted and apply to the winding up or dissolution of a co-operative.

Clause 312: Restrictions on voluntary winding up

This clause places certain restrictions on voluntary winding up of a co-operative.

Clause 313: Commencement of members' voluntary winding up

This clause specifies when a members' voluntary winding up commences.

Clause 314: Distribution of surplus—non-trading co-operatives

This clause provides for the distribution of surplus on a winding up of a non-trading co-operative.

Clause 315: Liquidator vacancy may be filled by Commission

This clause provides that a vacancy in the office of liquidator (in the case of a voluntary winding up) may be filled by the Commission.

Clause 316: Review of liquidator's remuneration

This clause provides for application to the Supreme Court for review of the remuneration of a liquidator.

Clause 317: Liability of member to contribute in a winding up where shares are forfeited etc.

This clause provides for the liability of a member to contribute in a winding up where their membership is cancelled within 2 years of the commencement of the winding up.

DIVISION 4—ADMINISTRATION OF CO-OPERA TIVE—ADOPTION OF CORPORATIONS LAW

Clause 318: Adoption of Part 5.3A of Corporations Law

This clause provides that the provisions of Part 5.3A and Division 3 of Part 5.9 of the *Corporations Law* are adopted and apply to and in respect of a co-operative as if it were a company.

DIVISION 5—APPOINTMENT OF ADMINISTRATOR

Clause 319: Appointment of administrator

This clause provides for the appointment of an administrator by the Commission.

Clause 320: Effect of appointment of administrator

This clause describes the effect of the appointment of an administrator.

Clause 321: Revocation of appointment

This clause provides for the revocation of appointment of an administrator by the Commission.

Clause 322: Expenses of administration

This clause provides that the expenses of an administration are payable out of the funds of the co-operative.

Clause 323: Liabilities arising from administration

This clause provides that an administrator is liable for any loss incurred by the co-operative which is incurred because of any fraud, dishonesty, negligence or wilful failure to comply with the measure, the regulations or the co-operative's rules by the administrator.

Clause 324: Additional powers of Commission

This clause provides the Commission with additional powers where the Commission has appointed directors of a co-operative under clause 321.

Clause 325: Stay of proceedings

This clause provides for a stay of proceedings against a co-operative where the Commission has appointed an administrator to conduct the co-operative's affairs.

Clause 326: Administrator to report to Commission

This clause requires an administrator to report to the Commission if requested to do so by the Commission.

DIVISION 6—EFFECT OF MERGER ETC. ON PROPERTY, LIABILITIES ETC.

Clause 327: How this Division applies to a merger

This clause provides for the application of this Division to a merger of co-operatives.

Clause 328: How this Division applies to a transfer of engagements

This clause provides for the application of this Division to a transfer of engagements of a co-operative to another co-operative under Division 1.

Clause 329: How this Division applies to a transfer of incorporation
This clause provides for the application of this Division to a transfer of incorporation under Division 2.

Clause 330: Effect of merger etc. on property, liabilities etc.
This clause describes the effect of an event to which this Division applies on the property, liabilities etc. of the relevant bodies.

DIVISION 7—MISCELLANEOUS

Clause 331: Grounds for winding up, transfer of engagements, appoint of administrator
This clause specifies the grounds for a winding up, a transfer of engagements and the appointment of an administrator.

Clause 332: Adoption of Corporations Law concerning reciprocity with other jurisdictions
This clause provides that the provisions of Part 5.7A of the *Corporations Law* are adopted and apply to and in respect of a co-operative.

Clause 333: Adoption of Corporations Law concerning insolvent co-operatives
This clause provides that the provisions of Part 5.7B of the *Corporations Law* are adopted and apply to and in respect of a co-operative.

PART 13
ARRANGEMENTS AND RECONSTRUCTIONS
DIVISION 1—GENERAL REQUIREMENTS

Clause 334: Requirements for binding compromise or arrangement
This clause specifies the requirements for a binding compromise or arrangement.

Clause 335: Supreme Court ordered meeting of creditors
This clause provides for a meeting ordered by the Supreme Court.

Clause 336: Commission to be given notice and opportunity to make submissions
This clause provides for the giving of notice to the Commission of the hearing of an application for an order under this Division.

Clause 337: Results of 2 or more meetings
This clause provides that the results of 2 or more meetings of creditors to be held in relation to a proposed compromise or arrangement are to be aggregated.

Clause 338: Persons disqualified from administering compromise
This clause specifies persons who are disqualified from administering a compromise or arrangement approved under this measure.

Clause 339: Adoption of provisions of Corporations Law and application to person appointed
This clause provides for the application of certain provisions of Schedule 4 to this measure, and the adoption and application of section 536 of the *Corporations Law*, to persons appointed to administer a compromise or arrangement.

Clause 340: Copy of order to be attached to rules
This clause requires a co-operative to ensure that a copy of an order of the Supreme Court approving a compromise or arrangement is annexed to each future copy of the co-operative's rules.

Clause 341: Directors to arrange for reports
This clause requires the directors of a co-operative in respect of which a compromise or arrangement has been proposed to instruct that certain reports be prepared and made available.

Clause 342: Power of Supreme Court to restrain further proceedings
This clause empowers the Supreme Court to restrain further proceedings in respect of a co-operative that has proposed a compromise or arrangement with any of its creditors.

Clause 343: Supreme Court need not approve compromise or arrangement takeovers
This clause provides that the Supreme Court need not approve a compromise or arrangement unless it is satisfied of certain matters.

DIVISION 2—EXPLANATORY STATEMENTS

Clause 344: Explanatory statement required to accompany notice of meeting etc.
This clause provides that an explanatory statement, containing the specified information, must be sent with every notice to creditors convening the court-ordered meeting, and to members for the purpose of the conduct of the special postal ballot.

Clause 345: Requirements for explanatory statement
This clause specifies further requirements for the explanatory statement referred to in clause 345.

Clause 346: Contravention of Division—offence by co-operative
This clause provides that a contravention of this Division constitutes an offence.

Clause 347: Provisions for facilitating reconstructions and mergers
This clause specifies provisions for facilitating reconstructions and mergers.

DIVISION 3—ACQUISITION OF SHARES OF DISSENTING SHAREHOLDERS

Clause 348: Definitions
This clause defines "dissenting shareholder" and "excluded shares" for the purposes of this Division.

Clause 349: Schemes and contracts to which Division applies
This clause describes the schemes and contracts to which this Division applies.

Clause 350: Acquisition of shares pursuant to notice to dissenting shareholder
This clause provides for the acquisition of shares pursuant to a compulsory acquisition notice sent to a dissenting shareholder.

Clause 351: Restrictions when excluded shares exceed 10 per cent
This clause specifies certain restrictions to the application of clause 351 where the nominal value of excluded shares exceeds 10 per cent of the aggregate nominal value of all the shares to be transferred under the scheme.

Clause 352: Remaining shareholders may require acquisition
This clause provides that remaining shareholders in the transferor co-operative may require the transferee to acquire the holders' shares.

Clause 353: Transfer of shares pursuant to compulsory acquisition
This clause provides for the transfer of shares pursuant to a compulsory acquisition.

Clause 354: Disposal of consideration for shares compulsorily acquired
This clause provides for the disposal of the consideration received for shares compulsorily acquired.

DIVISION 4—MISCELLANEOUS

Clause 355: Notification of appointment of scheme manager
This clause requires a person appointed to administer a compromise or arrangement to give written notice to the Commission of his or her appointment.

Clause 356: Power of Supreme Court to require reports
This clause empowers the Supreme Court, when an application is made to it under this Part, to require certain reports concerning the proposed compromise or arrangement to be given to it.

Clause 357: Effect of out-of-jurisdiction compromise or arrangement
This clause describes the effect of an out-of-jurisdiction compromise or arrangement.

Clause 358: Jurisdiction to be exercised in harmony with Corporations Law
This clause requires the jurisdiction of the Supreme Court under this Part to be exercised m harmony with its jurisdiction under the *Corporations Law*.

Clause 359: Commission may appear etc.
This clause allows the Commission to appear and be heard in any proceedings under this Part.

PART 14
FOREIGN CO-OPERATIVES
DIVISION 1—INTRODUCTORY

Clause 360: Definitions
This clause contains a number of definitions for the purposes of this Part.

Clause 361: Co-operatives law
This clause provides for the declaration of a law of a State other than South Australia as a co-operatives law for the purposes of this Part.

DIVISION 2—REGISTRATION OF FOREIGN CO-OPERATIVES

Clause 362: Operation of foreign co-operative in South Australia
This clause provides that a foreign co-operative must not carry on business in South Australia until it is registered under this Part.

Clause 363: What constitutes carrying on business
This clause specifies what constitutes carrying on business.

Clause 364: Application for registration of participating co-operative
This clause provides for an application for registration as a foreign co-operative by a participating co-operative.

Clause 365: Application for registration of non-participating co-operative
This clause provides for an application for registration as a foreign co-operative by a non-participating co-operative.

Clause 366: Commission to approve rules of non-participating co-operative
This clause provides that a non-participating co-operative is not eligible for registration unless the Commission is satisfied as to certain matters in relation to the co-operative's rules.
Clause 367: Name of foreign co-operative
This clause provides that a foreign co-operative is eligible for registration if the name it proposes to use in South Australia is not likely to be confused with the name of a body corporate or a registered South Australian business name.
Clause 368: Registration of foreign co-operative
This clause requires Commission to register a foreign co-operative if satisfied that it is eligible for registration.
Clause 369: Application of Act and regulations to foreign co-operatives
This clause applies this measure and the regulations to foreign co-operatives as if they were co-operatives.
Clause 370: Commission to be notified of certain changes
This clause specifies certain changes of which the Commission must be notified within 28 days of the alteration.
Clause 371: Balance sheets
This clause requires the lodgment by a foreign co-operative of a balance sheet within 6 months (or such longer period as allowed by the Commission) of the end of each of its financial years.
Clause 372: Cessation of business
This clause requires a foreign co-operative to notify the Commission within 7 days of ceasing to carry on business as a co-operative in South Australia.
Clause 373: Co-operative proposing to register as a foreign co-operative
This clause provides for the issue of a certificate of compliance by the Commission to a co-operative that proposes to apply to be registered as a foreign co-operative in another participating State.

DIVISION 3—MERGERS AND TRANSFERS OF ENGAGEMENTS

Clause 374: Who is the appropriate Registrar?
This clause defines "appropriate Registrar", "Registrar" and "South Australian Registrar" for the purposes of this Division.
Clause 375: Authority for merger or transfer of engagements
This clause provides for a merger of, or transfer of engagements between, a South Australian co-operative and a participating co-operative.
Clause 376: Requirements before application can be made
This clause specifies the requirements that must be complied with before an application can be made under this Division.
Clause 377: Disclosure statement required
This clause requires that a disclosure statement, containing the specified matters, be sent to each member by each co-operative prior to the passing of the special resolution approving the merger or transfer of engagements.
Clause 378: Making an application
This clause provides for the making of an application to the Commission for approval of a merger or transfer of engagements under this Division.
Clause 379: Approval of merger
This clause provides for the approval of a merger under this Division by the Commission.
Clause 380: Approval of transfer of engagements
This clause provides for the approval of a transfer of engagements under this Division by the Commission.
Clause 381: Effect of merger or transfer of engagements
This clause describes the effect of a merger or transfer of engagements under this Division.
Clause 382: Division applies instead of certain other provisions of this Act
This clause provides that this Division applies instead of certain other provisions of this measure.

PART 15
SUPERVISION AND PROTECTION OF CO-OPERATIVES
DIVISION 1—SUPERVISION AND INSPECTION

Clause 383: Definitions
This clause defines terms used in this Part.
Clause 384: "Co-operative" includes subsidiaries, foreign co-operatives and co-operative ventures
This clause provides that, in this Part, "co-operative" includes subsidiaries, foreign co-operatives and co-operative ventures.
Clause 385: Appointment of inspectors
This clause provides for the appointment of inspectors for the purposes of this measure.
Clause 386: Commission and investigators have functions of inspectors
This clause provides that the Commission and investigators have and may exercise all the functions of an inspector.
Clause 387: Inspector's identity card
This clause requires the Commission to provide each inspector with an identity card, which must be produced by the inspector on request.
Clause 388: Inspectors may require certain persons to appear, answer questions and produce documents
This clause provides that inspectors may require certain persons to appear, answer questions and produce documents.
Clause 389: Inspectors' powers of entry
This clause specifies inspectors' powers of entry to certain premises.
Clause 390: Powers of inspectors on premises entered
This clause specifies the powers of inspectors on premises that they are authorised to enter.
Clause 391: Functions of inspectors in relation to relevant documents
This clause specifies the functions of inspectors in relation to taking possession or making copies of documents.
Clause 392: Offence—failing to comply with requirements of inspector
This clause provides that failure to comply with any requirement of an inspector constitutes an offence.
Clause 393: Protection from incrimination
This clause provides that a person is not excused from making a statement on the grounds that the statement might tend to incriminate him or her, but the statement is not admissible against him or her in criminal proceedings other than proceedings under this Division.
Clause 394: Search warrants
This clause provides for the issuing of search warrants by a magistrate to inspectors.
Clause 395: Copies or extracts of records to be admitted in evidence
This clause provides for the admissibility into evidence of copies or extracts of records relating to the affairs of a co-operative.
Clause 396: Privilege
This clause relates to documents containing privileged legal communications, and allows a legal practitioner to refuse to comply with a requirement under section 388 or 392 under certain circumstances.
Clause 397: Police aid for inspectors
This clause provides for the giving of assistance by police to inspectors.

DIVISION 2—INQUIRIES

Clause 398: Definitions
This clause defines terms used in this Division.
Clause 399: Appointment of investigators
This clause provides for the appointment of investigators.
Clause 400: Powers of investigators
This clause specifies the powers of investigators.
Clause 401: Examination of involved person
This clause provides for the examination of involved persons by investigators.
Clause 402: Privilege
This clause provides for the privilege of an involved person who is a legal practitioner.
Clause 403: Offences by involved person
This clause creates a number of offences by involved persons.
Clause 404: Offences relating to documents
This clause creates a number of offences relating to documents.
Clause 405: Record of examination
This clause provides for the admissibility into evidence of a record of an examination made under section 401.
Clause 406: Report of investigator
This clause provides for interim and final reports to be made by an investigator to the Commission.
Clause 407: Proceedings following inquiry
This clause provides for the institution of legal proceedings following an inquiry under this Division.
Clause 408: Admission of investigator's report as evidence
This clause provides for the admissibility into evidence of an investigator's report.
Clause 409: Costs of inquiry
This clause provides for the payment of the costs of an inquiry under this Division.

DIVISION 3—PREVENTION OF FRAUD ETC.

Clause 410: Falsification of records
This clause prohibits the falsification of the records of a co-operative.

Clause 411: Fraud or misappropriation
This clause prohibits the obtaining of any property of a co-operative by fraud or misappropriation of the assets of a co-operative.

Clause 412: Offering or paying commission
This clause prohibits the offering or paying of a commission, fee or reward to an officer of a co-operative in connection with a transaction of the co-operative.

Clause 413: Accepting commission
This clause prohibits an officer from accepting such commission, fee or reward.

Clause 414: False statements in loan application etc.
This clause prohibits the making of false statements in or in relation to any application, request or demand for money made to or of any co-operative.

DIVISION 4—MISCELLANEOUS POWERS OF THE COMMISSION

Clause 415: Application for special meeting or inquiry
This clause provides for the calling by the Commission of a special meeting or the holding of an inquiry, on the application of a majority of members of the board or not less than one third of the members of a co-operative.

Clause 416: Holding of special meeting
This clause provides for the holding of a special meeting.

Clause 417: Expenses of special meeting or inquiry
This clause provides for the payment of expenses of a special meeting called or an inquiry held under this Division.

Clause 418: Power to hold special inquiry into co-operative
This clause allows the Commission, without any application, to hold a special inquiry into a co-operative.

Clause 419: Special meeting following inquiry
This clause provides for the calling by the Commission of a special meeting following an inquiry under this Division.

Clause 420: Information and evidence
This clause allows the Commission to require information and evidence from an applicant in relation to any application for registration or approval under this measure.

Clause 421: Extension or abridgment of time
This clause allows the Commission to extend or abridge any time for doing anything required to be done by a co-operative under this measure, the regulations or the rules of a co-operative.

Clause 422: Power of Commission to intervene in proceedings
This clause empowers the Commission to intervene in any proceedings relating to a matter arising under this measure or the regulations.

PART 16
ADMINISTRATION OF THIS ACT
DIVISION 1—THE COMMISSION

Clause 423: Interpretation
This clause contains a definition of "repealed Act".

Clause 424: Commission responsible for administration of this Act
This clause makes the Commission responsible for the administration of this measure.

Clause 425: Keeping of registers
This clause continues in existence the register of incorporated co-operatives and other registers kept under the repealed Act.

Clause 426: Disposal of records by Commission
This clause provides for the disposal of records by the Commission.

Clause 427: Inspection of register
This clause provides for the inspection of the registers and the obtaining of copies of documents kept by the Commission.

Clause 428: Approvals by Commission
This clause allows the Commission to indicate to an applicant for an approval under this measure that the approval is considered to have been granted at the end of a specified period unless the applicant is otherwise notified.

Clause 429: Lodgment of documents
This clause provides that a document is not considered to be lodged unless all required information is provided and the fee (if any) paid.

Clause 430: Method of lodgment
This clause provides for lodgment of documents by facsimile or electronic transmission.

Clause 431: Power of Commission to refuse to register or reject documents
This clause empowers the Commission to reject or refuse to register documents under certain circumstances.

DIVISION 2—EVIDENCE

Clause 432: Certificate of registration
This clause provides that certificates of registration issued under this measure are conclusive evidence of incorporation and that all requirements for registration have been complied with.

Clause 433: Certificate evidence
This clause provides for the issue of certificates by the Commission certifying that certain matters have or have not been done or that certain requirements of this measure have or have not been complied with.

Clause 434: Orders published in the Gazette
This clause provides that instruments published in the *Gazette* under this measure or the regulations are evidence of the giving or issuing of the instrument.

Clause 435: Records kept by co-operatives
This clause provides for the admissibility into evidence of records kept by a co-operative.

Clause 436: Minutes
This clause provides that minutes purporting to be minutes of the business transacted at a meeting are evidence that the business recorded was transacted at the meeting and that the meeting was duly convened and held.

Clause 437: Official certificates
This clause provides that official certificates and other documents bearing the common seal of the Commission are to be received in evidence without further proof.

Clause 438: The Commission and proceedings
This clause provides that judicial notice is to be taken of the Commission's seal.

Clause 439: Rules
This clause provides that a copy of a co-operative's rules verified by statutory declaration by the secretary of the co-operative to be a true copy of the rules is evidence of the rules.

Clause 440: Registers
This clause provides that the registers of a co-operative are evidence of the particulars inserted in those registers.

PART 17
OFFENCES AND PROCEEDINGS

Clause 441: Offences by officers of co-operatives
This clause provides that officers and directors involved in a contravention of this measure or the regulations by a co-operative are taken to have contravened the same provision.

Clause 442: Notice to be given of conviction for offence
This clause provides that notice is to be given to each member of a co-operative of a conviction for an offence against this measure or the regulations by the co-operative or an officer within 28 days after the conviction is recorded.

Clause 443: Secrecy
This clause imposes obligations of confidentiality, with specified exceptions, on persons involved in the administration of this measure or the former Act.

Clause 444: False or misleading statements
This clause provides that the making of false or misleading statements in a document required for the purposes of this measure or lodged with the Commission is an offence.

Clause 445: Further offence for continuing failure to do required act
This clause creates a further offence for a continuing failure to do a required act.

Clause 446: Civil remedies
This clause provides that a contravention by a co-operative of this measure, the regulations or its rules in making, guaranteeing or raising any loan or receiving any deposit does not affect the civil rights and liabilities of any person, but the money becomes immediately payable.

Clause 447: Injunctions
This clause provides for the issuing of injunctions by the Supreme Court on the application of the Commission or an affected person on certain specified grounds.

PART 18
GENERAL

Clause 448: Exemption from stamp duty
This clause provides an exemption from stamp duty in respect of certificates of incorporation of co-operatives and share certificates and other instruments issued or executed in connection with the share capital of co-operatives.

Clause 449: Co-operatives ceasing to exist
This clause requires the Commission to register a dissolution of a co-operative and cancel the registration of the co-operative.

Clause 450: Service of documents on co-operative
This clause provides for the service of documents on a co-operative.

Clause 451: Service on member of co-operative
This clause provides for the service of documents on a member of a co-operative.

Clause 452: Reciprocal arrangements
This clause provides for the reciprocal exchange of information between the Commission and the Registrars of other States and the Territories.

Clause 453: Translation of documents
This clause requires translations of documents that are not in English that are required to be furnished or lodged.

Clause 454: Regulations
This clause empowers the Governor to make regulations.

PART 19
REPEALS

Clause 455: Repeal of Co-operatives Act 1983
This clause repeals the *Co-operatives Act 1983*.

Clause 456: Amendment of Security and Investigation Agents Act 1995
This clause amends the *Security and Investigation Agents Act 1995* to change the reference from *Co-operative Act 1983* to this measure.

SCHEDULE 1
Matters for which rules must make provision
This schedule sets out the matters for which the rules of a co-operative must make provision.

SCHEDULE 2
Relevant interests, associates, related bodies
This schedule sets out how to determine relevant interest, whether persons are associates of each other and whether bodies corporate are related.

SCHEDULE 3
Registration etc. of charges
This schedule deals with the registration of charges over the property of co-operatives.

SCHEDULE 4
Receivers, and other controllers, of property of co-operatives
This schedule deals with the powers, duties and liabilities of receivers and other controllers of property of co-operatives.

SCHEDULE 5
Savings and transitional
This schedule contains savings and transitional provisions.

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

STATUTES AMENDMENT (PAY-ROLL TAX AND TAXATION ADMINISTRATION) BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

This Bill seeks to amend the return provisions of the Pay-roll Tax Act 1971 and the Taxation Administration Act 1996 to facilitate the provision of taxation relief on a more timely basis.

In recent years, the Government has implemented a number of administrative pay-roll tax incentive schemes for exporters, trainees, and most recently young people. Due to legislative impediments, this assistance has taken the form of a rebate of payroll tax actually paid and is usually refunded to the taxpayer at the end of the financial year.

This process does not achieve three important objectives, namely immediate cessation of tax liability, transparency to the taxpayer in the provision of relief and a reduction of red tape for the taxpayer.

It is proposed in this Bill that the Pay-roll Tax Act 1971 and the Taxation Administration Act 1996 be amended to permit the Commissioner of State Taxation to vary the procedure for the lodgement of returns in such a manner as to create the administrative flexibility necessary to enable the rebates to be claimed immediately in a more timely and efficient manner than is currently the case.

The provision of immediate and transparent relief with a minimum of red tape will more quickly deliver assistance to targeted business areas and will be welcomed by business.

As the Bill amends the Taxation Administration Act, the opportunity has been taken to correct a technical deficiency that has been identified in the secrecy provisions of the Taxation Administration Act 1996.

It has become evident that the secrecy provisions of the Act as they stand could result in the Commissioner of State Taxation having to disclose confidential taxpayer information to third parties without the taxpayer's consent. This outcome was never intended.

The amendment to the secrecy provisions is essential to ensure that taxation information remains confidential to a particular taxpayer and is not able to be accessed by other individuals without proper authority.

I commend the Bill to the House.

Explanation of Clauses

The provisions of the Bill are as follows:

PART 1
PRELIMINARY

Clause 1: Short title
Clause 1 is formal.

Clause 2: Commencement
The measure is to be brought into operation by proclamation.

Clause 3: Interpretation
This clause is the standard interpretation provision for Statutes Amendment Acts.

PART 2
AMENDMENT OF PAY-ROLL TAX ACT 1971

Clause 4: Amendment of s. 15—Returns
Under section 15 of the Pay-roll Tax Act 1971 returns of wages are required to be furnished to the Commissioner by employers on a monthly basis. Section 19 of the Act requires payment of pay-roll tax within the time within which the employer is required to lodge the return of the wages in respect of which the tax is payable, that is, on the same monthly basis.

Subsections (2) and (3) of section 15 allow the variation of the time for lodging monthly returns of the variation of the monthly cycle. This variation can only be made when the Commissioner considers it would be unduly onerous to require compliance with the normal time limit or the normal monthly cycle for lodging returns.

The clause replaces subsections (2) and (3) with more flexible provisions which do not require a decision of the Commissioner that compliance with the normal rules would be unduly onerous. The new provisions also allow variation of the monthly cycle in relation to specified wages so that, for example, annual returns might be required for some wages and monthly returns for others. A variation under the new provisions may be made by notice in the *Gazette* or by notice to an employer.

It should be noted that Part 6 of the *Taxation Administration Act 1996* will, when it comes into force in relation to the *Pay-roll Tax Act*, allow for such special return arrangements. At that time, the *Statutes Amendment (Taxation Administration) Act 1996* (which contains amendments consequential to the *Taxation Administration Act)* will strike out subsections (2) and (3) of section 15 of the *Pay-roll Tax Act*.

Clause 5: Transitional provision
The clause ensures the continued operation of a notice given under section 15(2) of the Pay-roll Tax Act 1971 and in force immediately before the commencement of this measure.

PART 3
AMENDMENT OF TAXATION ADMINISTRATION ACT 1996

Clause 6: Amendment of s. 35—Approval of special tax return arrangements
Section 35 of the Taxation Administration Act 1996 provides for the Commissioner to approve special arrangements for the lodging of returns and the payment of tax under a taxation law.

The clause amends the section so that an approval may relate to specified classes of taxpayers as an alternative to individual specified taxpayers and so that an exemption forming part of such a special arrangement may be a partial exemption as an alternative to a complete exemption.

Clause 7: Amendment of s. 38—Variation and cancellation of approvals
Under section 38 of the Taxation Administration Act 1996 the Commissioner may vary or cancel an approval by notice in writing.

The clause removes the requirement that such a notice must be served on the taxpayer or agent to whom it relates.

This amendment is consequential to clause 8.

Clause 8: Insertion of s. 38A

Clause 5 allows notices approving special tax return arrangements and notices varying or cancelling such approvals to be either published in the *Gazette* or served on the taxpayer or agent.

Clause 9: Amendment of s. 39—Effect of approval

This clause makes an amendment consequential on the amendment to section 35(1)*(a)* allowing an approval to be given to a class of taxpayers.

Clause 10: Amendment of s. 78—Permitted disclosure in particular circumstances or to particular persons

Under the clause, disclosures of information obtained under or in relation to the administration or enforcement of a taxation law would be allowed—

(a) with the consent of the person to whom the information relates or at the request of a person acting on behalf of the person to whom the information relates; or

(b) in connection with the administration or enforcement of a taxation law, the *Taxation (Reciprocal Powers) Act 1989*, the *Petroleum Products Regulation Act 1995*, the *Tobacco Products (Licensing) Act 1986* or a law of another Australian jurisdiction relating to taxation; or

(c) for the purposes of legal proceedings under a law referred to in paragraph *(b)* or reports of such proceedings; or

(d) to a prescribed office holder or body under a law of this jurisdiction or another Australian jurisdiction; or

(e) as authorised under the regulations.

New paragraph *(a)* differs from the existing paragraph *(a)* of section 78 by removing the limitation that a consent or request can only relate to information that has been obtained from the person to whom the information relates.

New paragraphs *(b)* and *(c)* together replace the existing paragraphs *(b)* and *(c)*. The new paragraphs extend the permitted disclosures to those made in connection with the administration or enforcement of the *Taxation (Reciprocal Powers) Act 1989*, the *Petroleum Products Regulation Act 1995* or the *Tobacco Products (Licensing) Act 1986*.

New paragraph *(d)* corresponds to the existing paragraph (e) but allows disclosures to prescribed bodies as well as prescribed office holders.

New paragraph *(e)* allows disclosures as authorised under the regulations. This replaces the existing paragraph *(d)* which allows any disclosure as required under an Act.

Clause 11: Substitution of ss. 80 and 81

Prohibition of disclosures by other persons

The new section 80 makes the prohibition of secondary disclosures (that is, disclosures by persons other than tax officers or former tax officers) clearly apply to information gained properly or improperly or directly or indirectly from a tax officer or former tax officer. It also provides for permitted secondary disclosures—

(a) that correspond to those that a tax officer would be permitted to make (see *clause 10*); or

(b) by a prescribed office holder or body under a law of this jurisdiction or another Australian jurisdiction if the disclosures are made in connection with the performance of functions conferred or imposed under such a law or for the purpose of legal proceedings connected with the performance of such functions; or

(c) with the consent of the Commissioner.

Restriction on power of courts to require disclosure

The new section 81 makes it clear that a court cannot require a disclosure contrary to the above provisions.

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

STATUTES AMENDMENT (REFERENCE TO BANKS) BILL

Returned from the House of Assembly without amendment.

ASSOCIATIONS INCORPORATION (MISCELLANEOUS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 11 p.m. the Council adjourned until Thursday 29 May at 2.15 p.m.