

HOUSE OF ASSEMBLY

Wednesday 4 November 1998

The **SPEAKER (Hon. J.K.G. Oswald)** took the Chair at 2 p.m. and read prayers.

ALFRED BAY

A petition signed by 219 residents of South Australia requesting that the House urge the Government to close Alfred Bay and adjacent waters to the north to professional netters, crabbers and squid fishermen was presented by the Hon. R.G. Kerin.

Petition received.

TORRENS PARADE GROUND

A petition signed by 66 residents of South Australia requesting that the House urge the Government to preserve the Torrens Parade Ground in Adelaide as a museum of South Australia's military history was presented by the Hon. M.D. Rann.

Petition received.

PAPER TABLED

The following paper was laid on the table:

By the Minister for Government Enterprises (Hon. M.H. Armitage)—

Listening Devices Act—Report, 1997-98.

NORTHERN ADELAIDE PLAINS GROUND WATER

The Hon. D.C. KOTZ (Minister for Environment and Heritage): I seek leave to make a ministerial statement.

Leave granted.

The Hon. D.C. KOTZ: The ground water system of the Northern Adelaide Plains began to evolve some 70 million years ago. However, 40 years of human exploitation now threatens the integrity and productivity of the system. I am advised that areas of the basin's watertable has diminished by 50-70 metres over the past 30 years. Ground water is available from two water-saturated beds of limestone and sediment, known as aquifers, below the Northern Adelaide Plains. This has encouraged the development of some 3 000 hectares of horticulture in the region of Virginia, Angle Vale and Waterloo Corner.

As members would be aware, the area is renowned as a source of high quality produce for the Adelaide and Melbourne markets. Large expanses of glasshouses, polyhouses and field crops are almost entirely dependent on this ground water for the production of high value vegetables. Approximately 17 000 megalitres of ground water, which is sufficient to fill 17 000 Olympic-sized swimming pools, are extracted annually for irrigation from both the aquifers.

Prior to the 1950s, many of the wells in the region were artesian with, water flowing freely to the surface. Irrigation pumping has caused water levels to fall in most wells, requiring many to be deepened to prevent drying up. According to the latest scientific data compiled and analysed by the ground water section within Primary Industries and Resources SA, the volume of ground water being taken from the two prime aquifers each year is now three times greater than

the amount that is annually recharged into those aquifers. Falling water levels have caused a second and perhaps more serious problem. The ground water being pumped on to crops is becoming progressively more saline which, in turn, will affect crop yields and quality.

By establishing the Northern Adelaide and Barossa Catchment Water Management Board, the region is now on the way to developing its first comprehensive management plan, which will determine sustainable use, address problems such as leaking bores, and undertake the necessary research and on-ground works to ensure that the Northern Adelaide Plains do not become unproductive, saline deserts.

The State Government recognises the importance of this region in economic terms and is also compassionate to the socioeconomic issue confronting many families. However, the harsh reality is that this issue will not go away. The current rate of use of the resource is unsustainable and the only outcome of continued misuse of the resource will be increased salinity, increased pumping costs and the eventual loss of production and livelihood.

I am pleased to announce today that the State Government is taking a substantial first step in addressing the problems of the Northern Adelaide Plains. In conjunction with the Northern Adelaide and Barossa Catchment Water Management Board, a package has been developed to underpin the progressive long-term plans, which will rehabilitate the region. At a cost of more than \$1 million, we will provide every irrigator in the region with a new water meter, which will ensure that water use can be accurately monitored and illegal use can be minimised. The provision of meters will save irrigators \$160 a year in rent and maintenance. Through increased surveillance, the State Government will also clamp down on meter tampering and excess water use, and will impose penalties on excessive use.

We will advance a program to identify, rehabilitate or backfill leaky or corroded wells, which have been a major contributor to the decline in water quality in aquifers, as leaking bores enable water from the salty aquifers above to contaminate the freshwater aquifers below. The State Government is also working with a range of agencies and experts to find and develop additional water sources, including Bolivar reclaimed water, and other catchment supplies which can be used in aquifer recharge projects within the northern Adelaide region.

Through the new board and the management plan that is developing, irrigators in the region are finally being presented with a great opportunity to address some of the problems which have plagued them in recent years and threaten their very existence. Water quality and resource sharing will continue to be major challenges for all South Australians over the next few decades. The actions that we take now will determine whether or not we can achieve sustainable futures in a wide range of agriculture, horticulture, viticulture, forestry and mining industries. One thing is certain: if we turn our back on this problem now and walk away, we will destroy those vital and finite resources, along with many livelihoods.

The State Government is leading by example by initiating real investment in the area in the form of water meters, the rehabilitation of bores and other on-ground works. The onus is on every single one of us to understand the fragile and diminishing nature of our ground water supplies and the need to manage these resources effectively. It is also important that those who make use of these resources assume some of the responsibility for managing, preserving and even restoring our ground water supplies. It is only through responsible

water management that current and future generations of South Australians will continue to be able to enjoy healthy productivity and a healthy environment. I urge industry, the community and government at all levels to work together to protect, conserve and manage effectively this finite water resource now before advanced degradation causes this situation to be irretrievable.

LEGISLATIVE REVIEW COMMITTEE

Mr CONDOUS (Colton): I bring up the second report of the committee and move:

That the report be received.

Motion carried.

QUESTION TIME

SOUTH-EAST WATER

The Hon. M.D. RANN (Leader of the Opposition): Does the Premier, for the parliamentary record, stand by his claim made on television that he had not discussed the issue of South-East water policy with former Minister the Hon. Dale Baker, and that Mr Baker had never raised the issue with him? During a television interview on 29 October, the Premier denied having discussed changing the South-East water policy with Dale Baker. The transcript of the interview reads:

Reporter: Have you discussed water policy with Dale Baker . . .

Olsen: No.

Reporter: . . . for the South-East

Olsen: No.

Reporter: He has never raised the issue with you?

Olsen: No.

The Hon. J.W. OLSEN: I am happy to respond to that question, and I clarified that point in a press conference earlier today. Obviously, the Leader of the Opposition is a little slow off the mark. I will just comment—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: The answer that the Leader of the Opposition wants is this. Last week, at the end of a press conference on another matter, I was asked a question in the context of the contribution from the member for MacKillop in the Address in Reply debate on an issue in relation to Dale Baker. I took that to mean, 'Had I, in recent times, had a meeting with Dale Baker?' I indicated to the journalist that I had not read the Address in Reply speech of the member for MacKillop; that I was unaware of the thrust of his Address in Reply speech; and that I had not had a meeting with Dale Baker on water issues this year.

The Hon. M.D. Rann interjecting:

The SPEAKER: Order! The honourable member has asked his question.

The Hon. J.W. OLSEN: I have had my diary checked for this past year. I had one meeting with Mr Baker, which was in December last year, where he brought another person to see me. That was totally unrelated to any water issue—totally unrelated. That is the only meeting in my diary that I have had with Dale Baker in the course of the past year. If you were to ask me whether I had meetings with him during 1996-97, the answer to that would be 'Yes.' If you ask how many, when, how and what the subject was, I have no recall.

ELECTRICITY, PRIVATISATION

Mr SCALZI (Hartley): Will the Premier inform the House of even more proof that taxpayers are made vulnerable to significant financial risk when the power utilities they own start attempting to operate commercially in a national market?

Ms Hurley interjecting:

The Hon. J.W. OLSEN: We all know when the national market is starting. If the Deputy Leader had her ear to the ground, she would know that it has been announced that the national market will start on 13 December. It was announced late last week. Once again, the Deputy Leader is a little slow with the information and the action. The rest of the public know when it is.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: This has been a week of financial revelations, and they have all been bad ones for taxpayers. First, the damage to the New South Wales budget from the profit collapse of its power utilities. Then we have an international power expert in Alan James, who is also a former New South Wales Government adviser, making public statements that New South Wales taxpayers' dollars are at risk. He says that the New South Wales State-owned power utilities are operating uncommercially, and they are attempting to increase volumes at the expense of profitability—exactly the same warnings we have heard here to keep our utilities in public ownership. He also has said that the \$1.6 billion bid by the State-owned Integral Energy for its Victorian rival City Power was putting taxpayers at great risk. It is not a venture in which a public asset should be involved.

The interstate advice is the same as ours: power utilities owned by taxpayers have no place operating in a cutthroat national market. If they do make decisions that put everyone who owns them at financial risk, all the advice in New South Wales is to sell. New South Wales and Victoria have been operating in the national power market for some time, and the financial suffering that New South Wales is going through will be ours unless we also sell. The warnings are clear, concise and specific: taxpayers' funds are at substantial risk if we continue to own these power utilities and attempt to compete in a national electricity market.

I do not want to be in this House defending the continued ownership of the utilities and the continued loss of taxpayers' money, while at the same time having to deny funds going to the Queen Elizabeth Hospital, the Royal Adelaide Hospital or the Flinders Medical centre to provide urgent health services. And I do not want to be defending the loss of taxpayers' funds when the dividend just evaporates because of the national electricity market. When that dividend evaporates, the income flow from the State evaporates, and then you do not have the cash to invest in that range of infrastructure.

As a Parliament and certainly as a Government, we have a responsibility to provide social infrastructure for South Australians. We can do so only if we have the financial resources, and we will not be able to do so if, instead of money going into the social infrastructure, it goes into losses incurred by power utilities trading in a national electricity market in which they have had no experience and where the interstate experience shows tens of millions of dollars being lost. That is something that this State should not countenance.

SOUTH-EAST WATER

Mr HILL (Kaurna): Did the Premier meet with the Hon. Dale Baker and the former Minister for Water Resources (Hon. David Wotton) in or about June 1997 to discuss South-East water policy? The Opposition has been informed that, after the former Minister for Water Resources drafted a policy for South-East water in June 1997 for the coming election, the Hon. Dale Baker rang the Minister and informed him that the policy was not acceptable and he wanted it changed. The Opposition has also been informed that, on the same day, the Hon. David Wotton was summoned to John Olsen's office and, in the presence of Dale Baker, was told to change the policy.

The Hon. J.W. OLSEN: I know that the honourable member has been here only 12 months, but the simple fact is that policy is changed by Cabinet, and it is the Parliament that puts the legislative framework in place. As to the honourable member's question 'Were there any discussions', everyone in this Parliament was discussing water in 1996 and 1997. In addition to that, a series of meetings was held throughout the State in relation to water.

Members interjecting:

The SPEAKER: Order! The Leader will come to order.

ELECTRICITY, PRIVATISATION

Mr HAMILTON-SMITH (Waite): Will the Premier inform the House of yet further proof that the Government's decision to sell ETSA and Optima is correct, as Government power utilities operating interstate in the national market are taking a significant financial battering?

The Hon. J.W. OLSEN: There is no doubt that they are taking a financial battering. Taxpayers' dollars in New South Wales are being put at severe risk. Profits from the New South Wales power industry have already knocked a \$200 million hole in the New South Wales budget. Let me repeat that: to date, \$200 million has been knocked out of the budget in New South Wales. Profits are collapsing, and forecasts are for further large profit reductions in this financial year. That is certainly horrible news for them, even though they have a greater capacity to sustain a reduction of that magnitude in dividends from their power utilities than we are able to sustain. They do not have the debt servicing costs on a percentage basis that we have in South Australia.

The New South Wales Auditor-General has shown that the New South Wales power industry paid the Government \$890 million compared with the \$1.11 billion the previous year. So the dividend of the New South Wales power utilities, factored into the budget to pay for social infrastructure, has gone from \$1.11 billion down to \$890 million because they have been trading in the national market. There is a \$200 million downturn. That is what will happen here if we do not heed the warnings.

The three New South Wales generators were the worst hit trying to compete in the national market. A Government-run instrumentality tried to compete with the Victorian generators and simply could not keep up with them. It ended up costing them money. These three generators in New South Wales returned just \$135 million to the Government, compared with \$769 million the previous year. Just think about that: the Government received \$135 million instead of the \$769 million of the previous year. They are the warnings. This is a New South Wales Labor Government experiencing what a national electricity market is about.

They are the reasons that we have made the policy change—a difficult policy change, but the right policy change for this State. That is a horrendous profit collapse. For those people who say, 'Just keep ETSA and keep the dividends coming,' the point is that dividends will not continue to come. How on earth will we meet the costs of building at the Royal Adelaide Hospital and the Queen Elizabeth Hospital, and schools and roads throughout the State? How will we meet those needs when the profits start collapsing? The practical experience is there. It cannot be ignored; it is fact. It is the New South Wales Labor Government and the Auditor-General putting it on the books.

It is further proof that Labor in this State has learned nothing from the previous financial debacle that it caused. We have said that we do not want State Bank Mark II. The signs are on the horizon. State Bank Mark II is there unless we take corrective action. We have the opportunity to get this fixed. We have the opportunity, in a very meaningful way, to get debt reduction put in place in South Australia. We have the opportunity to reduce that \$2 million a day that is going into debt payment and put it back into the provision of essential services for South Australians.

We have been warned on this. We as a Parliament have been warned of the circumstances that we will confront in the next few years. We can either ignore it at our peril or we can take action. We can front up, be responsible, show some leadership role and say, 'For these reasons we have to pursue this course. If we do not pursue this course, these are the risks that will apply to every South Australian taxpayer.' We as a Government will not allow this State to have State Bank Mark II inflicted upon us. It has taken us a decade to wind that out. We will not have another decade of stagnation in this State and of lost job opportunities for South Australians simply because the Labor Party is hell-bent on a philosophical approach that just says 'No' and does not want to acknowledge the warnings that are there.

Before the Parliament in another place in the course of the next month will be the opportunity for South Australia to step aside from the debacle that is waiting to happen. I just implore members of the Labor Party to think about that. We have the opportunity to ensure that those circumstances that are now unfolding in New South Wales do not happen here for our kids' sake. Please consider that.

SOUTH-EAST WATER

Mr HILL (Kaurna): Will the Premier tell the House whether the former member for MacKillop, the Hon. Dale Baker, was telling the truth when he denied that he influenced the Government's policy for allocating water rights in the South-East, or was the current member for MacKillop telling the truth when he told Parliament last Wednesday, 28 October, that in August the Hon. Dale Baker had told him that he, that is Baker, was responsible for the current water allocation policy? Sir, with your leave and that of the House, I will briefly explain—

Members interjecting:

The SPEAKER: Order! Before the honourable member goes into the explanation, I do not believe that the Premier is responsible for the knowledge required to come out of the question. The honourable member may wish to look at his question again. The honourable member for Goyder.

Mr Foley interjecting:

The SPEAKER: I have heard the question.

Members interjecting:

The SPEAKER: Order! The Chair has heard the question. Regardless of the explanation, it is a question of ministerial responsibility to answer that question. The member for Goyder.

Mr FOLEY: On a point of order, Sir, for consistency, that has not been previous rulings. A member is entitled to ask a question and give an explanation; the Premier is then entitled to answer it or not.

The SPEAKER: That is not the case.

Mr Foley interjecting:

The SPEAKER: It is the requirement of the Chair to rule on whether the Minister has a responsibility to answer the question. In the view of the Chair, the Minister does not have responsibility to answer that question.

The Hon. M.D. RANN: On a point of order, Mr Speaker, the Premier in his previous reply said that Cabinet determined the policy. The Premier is the Chair of Cabinet.

Members interjecting:

The SPEAKER: The question is whether the Premier is responsible for replies by the former or present members for MacKillop. The Chair's view is that the answer is 'No.' The member for Goyder.

ENERGY EFFICIENCY

Mr MEIER (Goyder): My question is directed to the Minister for Natural Resources. What programs does the South Australian Government have in place to promote the responsible and efficient use of energy in South Australian homes? I understand that the Government has initiated a number of programs to reduce greenhouse gas emissions in its own operations through the greenhouse gas targets program and through the wider community.

The Hon. R.G. KERIN: I thank the member for Goyder for the question, which lies well within my responsibility. Last Friday I had the pleasure of opening the easy living home at Seaford—a display home constructed between Government and private enterprise. It is a joint venture involving the Energy Information Centre—which is part of the Office of Energy Policy—A.V. Jennings, the City of Onkaparinga, the South Australian Housing Trust, the Office for the Ageing and the Asthma Foundation of South Australia. As my colleague the Minister for Police, Correctional Services and Emergency Services and the member for Kaurua would have witnessed, the house is an extremely livable house where the special features have been achieved within a conventional design.

The Government's involvement in the project is consistent with its goal of promoting energy efficiency, and the South Australian Government has already initiated a number of programs to reduce greenhouse gas emissions in its own operations through its greenhouse gas targets program and with programs throughout the wider community. The promotion of energy efficient housing also provides savings to the community through reduced energy bills and reduces the rate of growth of the energy supply system. The purpose of this home is to demonstrate energy efficient design and asthma management principles, along with the implementation and testing of innovative design features for the aged community.

The home maximises passive solar design techniques for energy efficiency using optimal solar orientation, insulation and thermal mass, and it is extensively naturally lit. It has also been specifically designed to help South Australia's 200 000 asthma sufferers by showcasing low allergy home

features. The Asthma Foundation has been a terrific help in putting the house together. The house incorporates floors and details that provide an environment that minimises those triggers for asthma sufferers. The kitchen, like other areas in the house, is designed in such a way that it will allow access for occupants as they age or become disabled. The easy living home is the first display home in South Australia to incorporate all these features in the one house and will provide occupants with the opportunity to live both comfortably and safely all year round with a minimum of cost. I urge members to look at the easy living home, which is adjacent to the land sales and information centre at Seaford.

MOTOROLA

Mr CONLON (Elder): Why has the Premier continued to assert that the Motorola contract had gone through the Supply and Tender Board and other processes, all of which were signed off prior to the November 1996 agreement with Motorola being put in place? The Economic and Finance Committee was supplied with a letter today from the Chair of the State Supply Board, Anne Howe, who wrote:

The State Supply Board has not authorised the arrangements for the appointment of Motorola as the designated supplier to the GRNC.

The letter further states:

The State Supply Board, in consultation with the Crown Solicitor's office, issued State Supply Board policy number 10.4 . . . to deal with . . . concerns.

Policy 10.4 of the State Supply Board was written in June 1997—eight months after the Motorola deal was signed.

The Hon. J.W. OLSEN: I simply draw the attention of the House to the Crown Solicitor's advice dated 4 November 1998 which refers to 'compliance with policy'. In my view the policy has been complied with; that clearly supports the position. Constantly in this place we have the member for Elder wanting to rewrite history and attempting to confuse in order to develop a new and different scenario every time. It was the member for Elder who said in the Economic and Finance Committee, upon which he was reported on the airwaves, 'It looks as if Olsen is off the hook.' The member for Elder cannot say that in the Economic and Finance Committee and in the public arena and then try to put me back on the hook. He cannot have it both ways.

At that time the member for Elder had the Solicitor-General's advice, and that advice is clear and specific: that my responses to this Parliament have been fair and accurate. That is what led the member for Elder to say in the committee, 'It looks like Olsen's off the hook.' He would not have said that if he did not actually believe it. But he went away and the back room boys said, 'No, you can't let him off the hook. We have to create another scenario.' Each day the Opposition keeps presenting these new scenarios. We can tell when the Opposition has no substantive questions when it brings Motorola back into Question Time.

It was the Leader of the Opposition who, during the break, said that the most important issue was the economy and jobs. The Leader of the Opposition and his colleagues on the front bench have not raised that subject. They have not begun to focus on the economy and jobs. If it is so important, why has the Opposition not put that on the agenda? Why has it not focused the good use of parliamentary time on policy direction for economic development and jobs? Why has it not done that? I will tell members opposite why: because of the economic direction of South Australia and the positive signs that are starting to emerge. Those positive signs mean jobs

and the securing of jobs, as we saw today in the opening of the \$25 million Solver plant. All I say to the Opposition is that it is the economy—

An honourable member interjecting:

The Hon. J.W. OLSEN:—and the jobs, stupid; that is what this Parliament ought to be concentrating on.

MEDICAL GRADUATES

The Hon. G.M. GUNN (Stuart): Will the Minister for Human Services outline to the House how a small number of general practitioner training positions allocated to South Australia is restricting the training of medical graduates to be general practitioners, and how this is threatening rural health and medical services?

The Hon. DEAN BROWN: I thank the member for Stuart for his question because the shortage of good general practitioners in country areas is now critical in South Australia. We could immediately place 30 GPs in this State's country areas alone. We have a need, over the next 12 to 18 months, for at least 50 general practitioners. If the position of a general practitioner cannot be filled in many of these towns, it threatens not only the medical services but also the existence of the local hospital.

I am very concerned at the restrictions that have been imposed on South Australia. The Federal Government has said that only 400 positions per year should be trained as general practitioners. That is the total number for which it is prepared to provide. They give the responsibility for the allocation of that to the Royal Australian College of General Practitioners which, in its lack of wisdom, has allocated only 23 positions to South Australia—23 out of 400 positions. That means that we have less than 6 per cent of the number to which we are entitled. We have an immediate need for 30 positions. If we are training 23 doctors into the system this year and we have to replace doctors retiring in the metropolitan area as well, members can see that our numbers will continue to decline, let alone trying to catch up on the existing shortfall. The situation is becoming absolutely critical. Ask the member for Gordon about the situation in Mount Gambier; ask the Deputy Leader about the situation at Port Pirie and the Mid North.

We are 10 doctors short in the Mid North; 17 doctors short on Eyre Peninsula; and seven or eight doctors short in Mount Gambier. There is a shortage of doctors across much of the State. The medical services of this State are being strangled by the Federal Government and the Royal Australian College of General Practitioners through the allocations they are imposing on us. I have taken up this issue with both those bodies—the Federal Health Minister and the Royal College. My particular complaint immediately is with the Royal College because it should be allocating to South Australia at least 34 positions. To make the situation worse, let me reveal to the House what is happening in our medical schools.

This year, at the University of Flinders 60 per cent of the first year students have come from interstate, that is, 35 out of the 57 students. At the University of Adelaide about 30 per cent or more of the students have come from interstate; that means that 30 students have come from interstate. We have the farcical situation now where almost the majority of the training positions in our medical schools in South Australia are filled by people from interstate, who, as soon as they graduate, return interstate. We are therefore providing GPs and trained medical officers for other States. This year 62 people from South Australia applied for a training position

with the Royal College. In other words, you obtain your full qualification as a doctor, having graduated from the university and completed training in the hospital, and then you have to apply for your training position with the Royal Australian College of GPs. This year we had 62 applicants for a mere 23 positions when we have a critical shortage in the country alone of 30 GPs.

I find the present framework being put down by these bodies totally unacceptable for this State. It is a farcical situation and I can get no sense out of the Royal College whatsoever. I receive polite letters saying that it may look at changing the allocation for the year 2000. That is no comfort for the people in country South Australia, who literally cannot get a doctor. I throw a public challenge back to the Royal Australian College of GPs: it will be on their heads if people in rural parts of South Australia cannot get GPs, with the further consequence that we will see the collapse of hospital services in those towns. I throw a challenge back to it to stand up publicly and justify what it is doing to the medical services of this State.

MOTOROLA

Mr FOLEY (Hart): Does the Premier stand by his statement to a news conference on 4 September this year that no ministerial directive was given to the State Supply Board regarding the Motorola deal? A letter supplied to the Economic and Finance Committee today from the State Supply Board Chair, Ms Anne Howe, makes it clear that the State Supply Board was forced to write a new policy eight months after the Motorola deal was signed off on. In that letter Anne Howe says:

... a result of the change in project scope represented by the potential for an agreement to nominate Motorola as the preferred supplier under the Government's radio network contract.

The agreement to nominate Motorola was not authorised by the State Supply Board.

The Hon. J.W. OLSEN: No, it was not, and nor did it have to be.

Mr Foley: It was not authorised.

The Hon. J.W. OLSEN: Just wait for a moment. Let me—

Members interjecting:

The SPEAKER: Order! The Premier has the call.

The Hon. J.W. OLSEN: Let me quote from the Crown Solicitor's advice as to why policy statement 10.4 was changed. The advice states:

At the time of the policy statement the proposal was for the Government radio network contract to be by way of services contract with the successful tenderer—

'services'—not 'goods'—

Accordingly, the main contract between the State and the successful bidder was for the provision of services, not goods. The jurisdiction of the State Supply Board is limited to making arrangements for the acquisition, distribution, management and disposal of goods under the State Supply Act 1985.

Therein lies the reason. So, what the honourable member has to do—

Mr Foley interjecting:

The Hon. J.W. OLSEN: No, just do a little bit of homework and go back and see what the board's responsibility under the Act is.

Mr Foley interjecting:

The SPEAKER: Order! The member for Hart will stop displaying items around the Chamber.

Mr Foley interjecting:

The SPEAKER: Order! I warn the member for Hart for interjecting after the House has been called to order.

OUTER HARBOR CONTAINER TERMINAL

Mr CONDOUS (Colton): Will the Minister for Government Enterprises advise the House of details relevant to the Outer Harbor container terminal extension and say how such developments will help South Australian industry?

The Hon. M.H. ARMITAGE: I thank the member for Colton for his question about a very important matter in relation to the Outer Harbor container terminal extension. Ports Corp recently completed a 55 metre berth extension at Outer Harbor, the budgeted costs for these works being \$3.7 million. The Outer Harbor extension indicates quite clearly that there is an increased demand for the use of these sorts of facilities. Over the past three years—

Mr Foley interjecting:

The Hon. M.H. ARMITAGE: No. Over the past three years, Port Adelaide, through the efforts of Ports Corp working with Sealand, has almost doubled the number of shipping services through the container terminal. Currently, the port—and this is a real success story—has two services per week to Europe, two to South East Asia, one per week to North Asia, three a month to New Zealand and one a month to North America. As a result of the success of Ports Corp's great marketing efforts, a massive growth has occurred in the container volumes through the terminal.

In 1996-97, the growth was approximately 28 per cent, and in 1997-98 the growth was a further 25 per cent on top of the 28 per cent for the previous year. In addition to the growth of actual volume through the terminal, which I have just mentioned, the size of the ships calling at the port has also increased significantly, and the largest ship now calling on a regular basis is in excess of 290 metres in length. This extension to the container terminal has been in response to the increase in trade, plus projected further increases in both trade volume and, indeed, ship sizes. It is part of a continuing and progressive development of the port to meet current and future trade demands of the State and it is definitively a good story. It will continue to support the reputation of the port as the most efficient and reliable container port in Australia, which does not mean—

Members interjecting:

The Hon. M.H. ARMITAGE: The Opposition is attempting to rewrite history. Throughout the port dispute recently what I said was that we were the most efficient and reliable port in Australia, which did not stop us, I believe, from striving to be the best in the world and, if restrictive work practices are going to get in the way of South Australia being even better, I would have thought it would be in the interests of every member in this House, as well as of all South Australians, to attempt to put down those barriers.

It is important to note that such development not only assists the South Australian shipping industry but also has enormous spin-off effects for all other sectors in South Australia because of the benefits of export and so on. It is a good result for South Australia, and indeed it is another example of the Government's forethought in planning ahead for the growth of the economy.

MOTOROLA

Mr CONLON (Elder): What guarantees can the Premier give that the State Supply Board can get the best possible price on goods from Motorola, given that policy 10.4 ensures only that the equipment supplied in the Government radio network contract is no less favourable than those negotiated with Motorola by the New South Wales Government, when Motorola has no contract with the New South Wales Government and the policy was written eight months after the Motorola deal was signed? The New South Wales Government radio network contract is held with Telstra, not Motorola. There is no deal to dovetail. Motorola subcontracted to Telstra for the equipment supply in the New South Wales contract, a fact which, after some misinformation, has now been acknowledged formally to the Economic and Finance Committee by the Auditor-General.

The Hon. M.H. ARMITAGE: The real question here is whether the Opposition wants to see job growth in South Australia. Does the Opposition want to see the economy grow? Is the Opposition pleased that Motorola, a world-renowned company, has set up here and now has 230 employees, and it will grow to 300?

Members interjecting:

The Hon. M.H. ARMITAGE: The Opposition indicates through one member that it is pleased, but the continual carping is obviously designed to do one thing and one thing only: to make it difficult for the Government to sell South Australia to major companies. That is appalling for the future of the South Australian economy. The simple fact is that this is a success story for South Australia. Every single one of those employees and their families are delighted that Motorola has set up here, and so is the Government. As for the question in relation to the State Supply Board, I will refer that to the relevant Minister.

MATTER OF PRIVILEGE

Mr CONLON (Elder): I rise on a point of order in respect of a matter of privilege. I ask you to rule, Mr Speaker, on the information that I will provide, whether a *prima facie* case can be made of the Premier having misled this House. The issue on which I assert that the Premier has misled the House is on the question of whether Motorola was given any side deals in addition to an incentive package detailed to Parliament of some \$16 million to locate its software centre in Adelaide and, in particular, whether Motorola was made the supplier of voice equipment for a whole of Government radio and paging network as a result of locating its software centre in Adelaide. The Opposition asserts that the Premier has misled the Parliament on two occasions over this issue.

The issue was first raised by the Opposition in October 1994 after persistent rumours of a side deal. Mike Rann asked then Minister Olsen whether any promises had been made to Motorola about future Government work in addition to the \$16 million package. Minister Olsen said on that occasion:

No formal or informal discussions or commitments have been given to Motorola.

That was a categorical denial of a side deal, of any discussions or any commitments, and I allege that it was the first time the Premier misled the House on this matter.

The Opposition raised the issue again in Estimates this year after the contract had proceeded to the point where the services provided were to be let. We had a written answer

provided by Minister Matthew, through Treasurer Rob Lucas, and I would ask you, Mr Speaker, to consider this answer. Part of it states:

In April 1994, the Minister for Industry, Manufacturing, Small Business and Regional Development offered to Motorola that, subject to normal commercial criteria and the establishment of its Australian software centre in Adelaide, Motorola would be appointed the designated supplier of radio equipment for the whole of Government SMCS as contemplated in 1994.

As a result of that answer seemingly being in direct contradiction to the answer that we previously got from the Premier, we pursued this matter throughout August this year. It is common knowledge that the Premier spent a month ducking the questions but finally, four years after the letter was written, the Premier acknowledged that he had sent the letter to Motorola in April 1994. He attempted to defend himself by producing Crown Law advice, which I shall refer to later, but on 27 August 1998, he went on to assert:

After that, there is no side deal.

We assert that that was the second occasion on which the Premier misled Parliament.

The evidence that the Opposition would like you to consider, Mr Speaker, is as follows, and we believe it is overwhelming. First is the Premier's own admission, the forced admission, that he did write the letter of 14 April 1994 which, *prima facie*, is inconsistent with his answer in October 1994. There is much more. There is the letter from Ray Dundon, who was then Chief Executive Officer of the Office of Information Technology, in October 1994, some months after the June contract that the Premier thinks got him off the hook. I cite that letter as part of this case. The relevant part referring to the deal to make Motorola the designated supplier of radio equipment is as follows:

Furthermore, it is my understanding that the South Australian Government is committed to the undertakings made in the various letters which have been sent to Motorola earlier this year by the Minister for Industry, Manufacturing, Small Business and Regional Development, Mr John Olsen.

The various letters and undertakings sent by John Olsen. There is the advice of the Crown Solicitor in May 1995 in which he sets out the opinion that the State was very likely legally obligated to make Motorola the designated supplier of radio equipment for the whole of Government contract as a result of representations made to the company by the Minister and the subsequent letter from Ray Dundon in order to have it locate its software centre in Adelaide.

There is the Auditor-General's Report of 1995, which refers to the danger of pre-emptive communications which have the effect of creating legal obligations and which possibly breach the State Supply Act. It is now clear that the Auditor-General has confirmed that he was referring to Minister Olsen's letter of April 1994. There is the decision by then Premier Brown in March 1996 to give approval to negotiations to finalise the appointment of Motorola as designated supplier of radio equipment for the whole of Government contract, apparently as a result of legal advice.

There is a letter from then Premier Dean Brown to Motorola in July 1996 confirming the appointment of Motorola pursuant to the offer of Minister Olsen in April 1994. There is the fact that we have learnt just today that, despite what was told to journalists on 4 September this year, the appointment of Motorola was presented as a *fait accompli* to the State Supply Board in 1996. It was a done deal. The deal was done and the State Supply Board had to deal with

it, and I will quote the Chair of the State Supply Board in a letter dated yesterday—so this is not old history—as follows:

The State Supply Board has not authorised the arrangements for the appointment of Motorola as the designated supplier to the GRNC.

In fact, so unique was this arrangement, we find that, eight months after a contract was signed, the State Supply Board devised a protocol to deal with it to protect the public in its dealings in this contract.

The Hon. M.D. Rann: It was fixed up later.

Mr CONLON: It was fixed up later. It amazes me that we even need this debate. Possibly the most telling piece of evidence is the actual contract with Motorola to make it the designated supplier. It contains in its recitals references to the letter from then Minister Olsen in April 1994 as being the basis for the making of a contract. There is the answer I have referred to earlier from Minister Matthew through Treasurer Lucas, when the cat was let out of the bag. Then there is the answer given by Minister Matthew to Parliament in 5 August this year, when he was taking the heat for the Premier on this matter. He said this:

It is fair to say that, because Motorola achieved that nomination as designated supplier for part of the equipment, that was sufficient encouragement for it to establish its software development centre in Adelaide.

One wonders how much evidence is necessary, but I will go on. The Premier's defence so far has been that, despite all that happened after that, a contract signed in June 1994 negated any obligations created in April. I would ask you, Mr Speaker, to consider this: if that is the case, why do we have the contract? Why did Ray Dundon write to them? Why did Premier Brown write to them? Why does the contract say that it is on the basis of that letter?

Mr Speaker, I would ask you also to consider that the advice of Crown Law and the Solicitor-General that the Premier has relied on in this matter is grievously undermined by the scandalous paucity of information with which those people were provided. They were simply not given the documents and the details, just as the Parliament was not. In any event, they do not get the Premier—and I will use this phrase—off the hook.

Mr Speaker, I ask you to consider this: the Premier is innocent of misleading this Parliament only if his knowledge of the Motorola contract and all the proceedings ended in June 1994, that he somehow did not know of the enormous weight of evidence of the deal with Motorola I have presented here today, that it all occurred after June 1994, because that evidence makes it clear that Motorola has had a continuing, uninterrupted arrangement with the Government from April 1994, put in place by then Minister Olsen that it would be made the designated supplier of radio equipment if it located its software centre in Adelaide. That is the simple truth of the matter.

The only explanation the Premier has consistent with innocence is that he did not know anything about it after April 1994. If that is the case, we would raise some other questions about the competency of the Premier. Mr Speaker, on that basis and on the basis of the matter as I have outlined it, I would not only ask you to consider the information I have provided to you in bringing down a ruling but also urge you to interview Ministers Matthew and Brown and find out what the Premier did know, whether he knew about this detailed information that happened after the contract in June 1994, which makes it clear that there was a massive side deal with Motorola to have it locate to this State.

Mr Speaker, on the basis of interviewing those Ministers and on the material I have raised, I point out that the Opposition will supply all documents in its possession on the basis that we would expect you to require the production of some of the documents that the Premier has relied on in presenting what defence he has presented to this Parliament. Mr Speaker, I ask that you rule on this privileges matter as a matter of urgency.

The SPEAKER: The Chair received some prior knowledge of this in this morning's media—that a question of privilege may arise here this afternoon. Over the years, these types of issues such as questions surrounding Motorola have been brought before the House in the form of censure motions, no confidence motions or as a matter of privilege—the latter ensuring that the consideration of all other matters before the House is suspended until the matter of privilege has been disposed of. In being asked to allow the matter to be brought on, it is not the role of the Speaker to carry out a magisterial inquiry and to collect further evidence into whether anyone has misled the House. That is the role of the Privileges Committee, should it be established.

It is also not my role to decide whether the matter should be referred to a Privileges Committee; that is the sole prerogative of the members of the House to decide. Under Standing Order 132, which is specific to the South Australian House of Assembly, my role is only to identify whether a matter raised touches on privilege, under the historic definition of the word 'privilege' and, if so, then allow the matter to be referred to the House by way of a motion so that the House can decide on the course of action it wishes to pursue.

In adopting this course, the Chair would express no view on whether a breach of privilege has taken place but, rather, acknowledges that a matter has been raised under Standing Order 110 and Standing Order 132 which touches on the issue of privilege. As the matter before the Chair this afternoon surrounding the statements attributed to the Premier and Motorola touches on privilege, I have decided that the House should have the opportunity to decide to what extent this is a matter of privilege as against politics; consequently, I have decided to let the House deal with the matter forthwith. I call on the member for Elder to move a motion.

Mr CONLON: I am not sure that I understand your ruling, Mr Speaker. If a traditional Privileges Committee is to be appointed in respect of this matter, is it necessary for me to move for the appointment of such a committee?

The SPEAKER: Order! The member has the right to move a motion as he sees fit in accordance with the direction in which he believes the House should move.

Mr CONLON: I will move that motion, Sir. I simply point out that it is a departure from the process followed when most recently a serious matter of privilege was raised against the former Deputy Premier. I move:

That this House establish a Privileges Committee to investigate assertions that the Premier misled this House on two occasions in regard to the Motorola contract.

I do not wish to traverse the entire ground we have just travelled, but I do want to say this—

The Hon. M.K. BRINDAL: I rise on a point of order, Mr Speaker. I believe the House has a right to see motions in writing.

The SPEAKER: Order! Technically that is correct. However, the House has a fair understanding of the motion. I ask that the motion be brought to the Chair at the earliest opportunity. I have called on the member for Elder. This is

a serious question before the Chair. The Chair accepts the motion, and it has been seconded. I ask the member for Elder to proceed.

Mr CONLON: As I said, I spoke in this Chamber last night about the standards that have developed in this House in the short time I have been in it regarding the truthfulness, frankness and candour required of Ministers in this place. I want to traverse the circumstances that I am asking the House to consider. What we know is that originally in October 1994 then Minister Olsen was asked whether there were discussions or commitments, formal or informal, or any promises to Motorola other than \$16 million of taxpayers' money they had already—

The SPEAKER: Order! The media will film only those members who are on their feet speaking.

An honourable member interjecting:

Mr CONLON: No, you mob are much easier.

The SPEAKER: Order! The member for Elder will come back to the motion before the Chair.

Mr CONLON: The Premier's answer on that occasion as we know it is that there were no discussions or commitments, formal or informal. The first question I raise is, 'Is that an acceptable standard of candour when the Minister sat there knowing that on 14 April he had written to Motorola offering to make it the designated supplier of radio equipment in a multi-million dollar contract if it located here?' Then Minister Olsen knew that he had done that, but he did not deem it worthy of telling Parliament.

Were he to have been frank and honest on that occasion, then Minister Olsen would have stood up and said, 'I did write a letter.' Even if his defence is right, he would have said, 'But then I signed a contract with them that negated the letter.' However, the truth is that he would not do that, he would not bring that standard of candour to the House. He simply hid the fact that he had written a letter to Motorola. How long did he hide it for? Four years. This is the question we are addressing here—what standards do we expect from Ministers?

That was the first instance of an extraordinary lack of candour about this whole arrangement from then Minister John Olsen who became the Premier. He would never tell this House that he had written and made an offer to Motorola, despite a number of questions having been put to him. And when did we find out? We asked questions in Estimates Committees, and I will tell the House what that process was like. We asked Minister after Minister in Estimates Committees, and none of them knew anything about this Government radio contract. Not one of them knew anything about it. They would each handball it to another one. There was no candour, no honesty and no standards. What we did get finally is a letter from Lucas with the paragraph in it that I have referred to, which was prepared by Minister Matthew. It is a well known fact that the Ministers and members in this place do not talk to each other. We know that from the water dealings. We know that they are paranoid in their fears of each other.

Mr Koutsantonis: They're talking to each other now, anyway.

Mr CONLON: Yes, they are doing a lot of talking to each other now. We do know that no-one told Wayne Matthew that he was not supposed to let the cat out of the bag. No-one told Minister Matthew that John Olsen had a conspiracy of silence on the letter he wrote in April 1994 to Motorola. So, poor old Minister Matthew comes along and lets the cat out of the bag. We came in here in August of this year and raised the question. We asked, 'Premier, do you stand by the answer

you gave us back in 1994 that there were no commitments, no discussions and no side deals?' The first three questions we asked, he handballed to poor old Minister Matthew again to get the Premier off the hook. It took three weeks of questioning before this Premier had enough candour to tell us that he did write the letter. Until that time, members would be excused for thinking that it did not exist.

But after three weeks of questioning he found that he did write the letter but, lo and behold, he had found something else in the four years that had elapsed. That was a June 1994 contract, which he alleged, on the skinniest information given in a couple of legal opinions, would get him off the hook. Again, what did we not get from the Premier? We did not get any candour about the fact that the Chief Executive Officer of the Office of Industry and Technology had written to Motorola in October 1994, confirming the offer that he had made in April and referring to a series of letters that he had written. If we are to discuss credibility, we might stop at that point and ask, 'Where is this series of letters? What do they contain? When will the Premier come clean?' Not until it is dragged kicking and screaming out of him. That is another thing the Premier did not tell us when he finally admitted that he had made the offer in April 1994.

I will tell members something that he did tell some journalists on 4 September, when he found himself in a bit of a morass, trying to defend the fact that he would not be candid about what had occurred. He told a whole line of journalists that it was, in fact, the State Supply Board that came up with these recommendations, and that it had signed off on the processes. On questioning, he said, 'But you can't direct the State Supply Board. How could I be in trouble? You can't direct the State Supply Board.' We now find in a letter today that the State Supply Board has, in fact, never authorised the arrangement with Motorola: it was presented with a done deal. That is another piece of information that the Premier will attempt to explain today. He now has a new explanation.

The simple fact is that this Premier has not been willing to face up to the consequences of his actions, to the consequences of the offer he made way back in April 1994. All that he was willing to tell us in April when we questioned him was that he did write the letter but that a June 1994 contract got him off the hook. So, what else did he not tell us about? He did not tell us about the letter written by the then Premier Dean Brown, his old colleague—his loyal and faithful colleague—to Motorola back in 1996. The only possible defence is that the Premier did not know about it, because the text of Dean Brown's letter unmistakably gives to Motorola the offer that was originally made by Minister Olsen on 14 April 1996. I just wish that we could have Minister Brown stand up and give us some candour on this issue: the Premier certainly will not.

We also know that then Premier Brown had meetings with Motorola in March 1996 to finalise arrangements for appointing it the designated supplier of radio equipment according to an offer made by Minister Olsen in April 1994. And we know more than that. This is where the Premier's answers simply fall to pieces. We know that in November 1996 a contract was signed with Motorola to make it the designated supplier of radio equipment. There was no tendering process, which is hard to explain, and no authorisation by the State Supply Board, which is also very hard to explain. But the contract has the explanation in its recitals. It refers to the 14 April 1994 offer of Minister Olsen to

Motorola to make it the designated supplier of radio equipment. It is game, set and match.

There was a massive side deal on this matter that this Premier knew about. He sat here in a conspiracy of silence to deny this Parliament and the public of South Australia the truth. If anyone in this Parliament believes that there was no side deal with Motorola, if anyone in this Parliament believes that Motorola was made the designated supplier of radio equipment for any other reason than that an arrangement was made to give it to Motorola if it located in Adelaide, if anyone in this Parliament believes that, I can guarantee that it is no-one on this side and it is not most of the people on that side.

I have no doubt that other members on this side would love to make some comments on the candour and credibility of the Premier, and I am sure that in their heart of hearts a number of members on that side would like to make some comments on the candour and credibility of the Premier on this matter, so I will leave it to other speakers to bring the case further.

The SPEAKER: Is the motion seconded?

Mr FOLEY (Hart): Mr Speaker, I move:

That this matter now be—

The SPEAKER: Order! I have to take a call on my right. We are in the middle of a debate now.

Mr FOLEY: On a point of order, Sir, I move:

That this matter now be adjourned.

The SPEAKER: You cannot do that, I am sorry. We are now in the debate. We have had the lead speaker to the motion and we now move to the other side of the Chamber.

Mr FOLEY: On a point of order, Sir, advice just provided to me by the Clerk of the House was that I was permitted to rise on a point of order and move that this matter be adjourned. On that advice, I move:

That this matter now be adjourned.

The SPEAKER: You can start to speak in this Chamber only when you get the call, and I do not recall giving the member for Hart the call. The honourable Premier.

Mr FOLEY: On a point of order, Sir, I rose to my feet before any other person in this Chamber, to move that this matter be adjourned. On advice provided to me by the Clerk of the House, I am permitted to do that.

The SPEAKER: Order! There is no point of order. It is up to the Chair to see and acknowledge members, and I did not acknowledge the member for Hart. I have an obligation to call someone on my right. The honourable Premier.

Mr FOLEY: On a point of order, Mr Speaker, on advice provided to me I was told that I was able to move that the matter be adjourned. Are you now saying that advice is not correct?

The SPEAKER: The honourable member can move that matter when he gets the call. As a matter of practice, there will be a call on my right. After that member finishes speaking, I will acknowledge someone on my left. If the member for Hart rises, he will be acknowledged. The honourable Premier.

The Hon. J.W. OLSEN (Premier): In the past year we have seen the Privileges Committee of the Parliament used in a fashion that has abused the processes of the Parliament.

Members interjecting:

The Hon. J.W. OLSEN: We have no more than—

The SPEAKER: Order! There is a point of order.

Mr ATKINSON: On a point of order, Sir, the Premier is reflecting on a decision of this House to establish a Privileges Committee, and I ask you to require him to withdraw.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! This is a serious debate and I ask members to respect it as such and at least let the Chair make rulings and keep the thing moving in an orderly manner. The Premier would be aware of any cross reference to other debates, certainly on matters of privilege and other committees of this Parliament. In his contribution I would ask him to avoid any reference that could be misinterpreted. The honourable Premier.

The Hon. J.W. OLSEN: I will, Mr Speaker. This is the culmination of a political stunt and process. We have seen the Opposition thrashing around on the Motorola deal now for a number of months. I simply draw—

Members interjecting:

The SPEAKER: Order! The member for Colton and the member for Hart.

The Hon. J.W. OLSEN: I simply draw to the attention of the House the statements of the member for Elder which, in his own words, condemn the motion he has moved before this House—

Mr Condous interjecting:

The SPEAKER: Order! I warn the member for Colton for continuing to interject. I warn members that it is a serious debate, and members will want to be present if a vote is taken later in the afternoon. The honourable Premier.

The Hon. J.W. OLSEN: The member for Elder is condemned by his own words. He said to the Economic and Finance Committee, in the course of conversation in that committee, which the media reported on the news services that night, 'Oh well, it looks like Olsen's off the hook.' That is, the member for Elder admitted in the committee hearing that the position I had put down was fair, accurate and reliable. Why did the member for Elder make that statement? It was because of the advice of no less than the Solicitor-General of this State. We made available to the Solicitor-General the advice, so it was not my view on this matter and it was not the view of the Opposition on this matter but it was that of the independent umpire, the Solicitor-General, the top law officer and the person who gives the prime advice to Government on matters legal in South Australia.

This top law officer, the Solicitor-General, Brad Selway, in advice dated 29 September 1998, reviewed these circumstances and said:

In my opinion, the advice of the Crown Solicitor dated 27 August 1998—

Here is the advice of the Crown Solicitor being reviewed by the Solicitor-General. What did the Solicitor-General say about the Crown Solicitor's advice? It was this:

In my opinion, the advice of the Crown Solicitor dated 27 August 1998 is clearly correct. Whatever may have been the legal effect—

Mr Conlon interjecting:

The Hon. J.W. OLSEN: No, I will come back—

The SPEAKER: Order! I warn the member for Elder for the second time.

The Hon. J.W. OLSEN: I will come back to the interjection from the member for Elder in a moment. This is the page 2 that I keep referring to. I simply ask the member for Elder, if he wants to present a case, not to be selective about the quotes he uses but to look at the whole advice. In a moment

I will come back to the interjection about the earlier advice of the Crown Solicitor. But, in sum total, the advice of the Solicitor-General is that the Crown Solicitor's advice dated 27 August is clearly correct. He states further:

Whatever may have been the legal effect of the relevant paragraph of the letter of 14 April 1994, that effect had been released and superseded by the clear terms of the subsequent agreement. That agreement was executed on 23 June 1994. Representatives of Motorola accepted that there were no additional continuing commitments outside the agreement. In my view it was proper they did so given the clear terms of the agreement, and on this basis I confirm the advice of the Crown Solicitor dated 27 August 1998.

Mr Atkinson interjecting:

The Hon. J.W. OLSEN: Mr Speaker—

Members interjecting:

The SPEAKER: Order! I call the member for Spence to order.

Members interjecting:

The Hon. J.W. OLSEN: Mr Speaker, I place on record that the honourable member has called the Solicitor-General a 'lap dog'.

Members interjecting:

The SPEAKER: Order! The Premier will resume his seat. I give a general warning to all members that this is a serious debate. If members are to continue to interject after the Chair has brought the House to order, they will start to be named. I also remind two members that they are already on their second warning. The honourable Premier.

Mr Atkinson interjecting:

The SPEAKER: Order! I warn the member for Spence for interjecting. If he interjects a second time, he will be named on the spot.

The Hon. J.W. OLSEN: That is clear and specific. The Solicitor-General clearly supports the basis of my replies to questions in 1994. I can assure you, Mr Speaker, that I would far sooner rely on the clear, unambiguous advice of the Solicitor-General than the trumped-up regurgitation of a political point-scoring exercise by members opposite.

In relation to this deal, it might be interesting for the House to know that back in July 1993 no less than the Opposition when in Government had consultants Amos Aked and Swift do a design overview for the then Labor Government based on the Motorola Smartzone scheme. This process was started in July 1993 by the Opposition when it was in Government. Talk about hypocrites!

The Opposition is deliberately seeking to confuse two separate agreements between the Government and Motorola, and the equally separate processes of negotiation which led to each. They are the agreement on the package of incentives for the setting up of Motorola's software centre in Adelaide in June 1994 and the agreement nearly 2½ years later which made Motorola the designated supplier for the shared mobile communications system.

Let us go back and trace a bit of history, because I think it needs to be put in its proper context and sequence and, when you do that, it gives a different answer to the one being painted by members opposite. On 14 April 1994, after Cabinet had agreed to the details of the incentive package for the software centre, in the context of that package I wrote to Motorola, in my then capacity as Minister, a letter signed off and endorsed by Cabinet that also alluded to the possibility 'subject to normal commercial criteria'. That was in the letter: 'subject to normal commercial criteria', so it had to do due process following that letter. As a result of that, we then moved forward.

I wrote some five letters to Motorola. This one, dated 14 April 1994, was the only one that referred even in this conditional way, 'subject to normal commercial criteria'—so it always had the commercial criteria requirement to it—to the mobile communications project. This was the period when we were negotiating with Motorola the incentive package on the basis of which it set up its software centre in Adelaide. The other letters were solely about the elements of the package that might be varied when we were discussing the components of that package.

This was the incentive package set out in the agreement which on 23 June the then Premier signed on behalf of the Government. The incentives covered the provision of facilities, relief from certain State taxes, and training and recruitment subsidies. This agreement specifically denied the existence of commitments on supply of mobile communications equipment or anything else and made it clear that all previous discussion on the issue had been superseded by the agreement. Clause 17 of the agreement reads:

This agreement constitutes the entire agreement of the parties in respect of the matters dealt with in this agreement and supersedes all prior agreements, understandings and negotiations in respect of the matters dealt with in the agreement.

That clause 17 clearly drew a line in the sand. It was after the letter, and clearly put the matter in perspective. There are two legal opinions that confirm that the statements made in the letter of 14 April were totally nullified by the agreement of 23 June. One was from the Crown Solicitor, of 27 August, and one was from the Solicitor-General, of 30 September 1998, which states that the Crown Law advice of 27 August was clearly correct in the view that whatever was contained in the letter of 14 April 1994 had been overtaken by the 23 June agreement.

There is the Crown Solicitor's advice, and no less than the Solicitor-General has reviewed the Crown Solicitor's advice. The Solicitor-General indicates clearly that the Crown Solicitor's advice is accurate and correct, as I have already indicated to the House. I do not know what else the Opposition wants. I have no less than the Crown Solicitor saying it was right. We have then taken that and given all the data to the Solicitor-General, who said that it was right.

Mr Atkinson interjecting:

The Hon. J.W. OLSEN: Is it not interesting? They talk about the Crown Solicitor as a lapdog. When we say the Crown Solicitor's advice and information pertaining thereto was given to the Solicitor-General to review, the Solicitor-General reviews it and says, 'It is correct; I agree with that', the only conclusion one can reach after hearing that remark is that the Opposition is also calling the Solicitor-General that. The Solicitor-General confirms the Crown Solicitor's advice. What more can one do to provide data in this House to back up the position I put down?

Every day I will rely on the Solicitor-General's advice, and if he confirms the position that ought to be the end of the matter, and he has done so. It was weeks ago that that information was released to the media and to anybody who wanted that information. Now the Solicitor-General says that the position I put to the House is fair, accurate and reliable. In this motion today there is nothing new—no new information; it is a recycling of the information that has been circulated in the media and in Question Time in this Parliament over a series of days.

It should also be noted, even if you do not want to take notice of that, that even prior to the conclusion of the agreement with Motorola, in June 1994 my letter of 14 April

1994 to Motorola was fully in accord with the State Supply Act in its reference to the possibility of future business. The qualification 'subject to normal commercial criteria' covers the requirements of the Act, which are part of all normal Government commercial criteria, and Crown Law has also confirmed that. So, that means that that requirement is met.

Furthermore, on 24 August 1994 the Industries Development Committee held a hearing at which the entire content of the incentive package was outlined. In response to a question about whether additional commitment to future Government contracts outside the agreement had been required to attract the software centre to Adelaide, the Motorola representative at the hearing, Mr Fordham, specifically denied it.

The second process is in relation to the contract. That is separate and distinct from the first. A lengthy process of assessment ensued, including a complete independent strategic review of the Government's telecommunications needs—independent advice from two consultants on technical aspects of bids. This ultimately led to the signature of the second agreement with Motorola as the designated supplier on 22 November 1996. We did rely on the New South Wales process, as has been clearly identified previously. I have further given the House today advice in relation to State Supply Act provisions having been complied with. That is the advice of the Crown Solicitor given to the Government on 4 November 1998.

It comes down to this: there was a sequence of events. I answered questions in this Parliament. I have Crown advice and I have Solicitor-General's advice, which has been made available to the Parliament. It clearly substantiates the view—

Mr Hanna interjecting:

The Hon. J.W. OLSEN: Haven't you been listening for the past 20 minutes? Obviously the member has been reading his book again. I am sure all members do not want me to go over the Crown Solicitor's and Solicitor-General's advice, because it was an inane interjection. The due process sequence has been followed in this matter. Quite clearly this is beyond doubt, because the Solicitor-General's advice clearly puts in perspective the way in which the Labor Party is trying to rewrite history in this matter. Try the political stunt as they will, they will not be successful at the end of the day, because one thing that will sustain the position at the end of the day is right is right is right.

Mr FOLEY (Hart): Let us look at the Solicitor-General's advice that the Premier so strongly latches onto as his defence. That advice, given on 29 September this year, is some of the most qualified advice any of us in this Chamber have seen, given the standing of the Solicitor-General. Let us look at what he did say, in part, in that advice. He uses statements like, 'I am instructed that'; 'I understand that'; and, 'I have not sighted that advice, but I am instructed that. . .'. Perhaps the Minister for Industry should listen to this, as he might learn something. The advice that Premier Olsen says is his defence—advice that is impeccable and gets him off the hook—states:

This advice is given on the basis of the material forwarded to me—

that is, the Solicitor-General—

by the Chief Executive Officer of the Department of Premier and Cabinet, and a copy of a letter from the then Premier to Motorola dated 9 July 1996 provided to me by the Auditor-General. If any further information becomes available which qualifies any of this material I will be happy to reconsider this advice.

So, the flimsy, pathetic little piece of advice this Premier hangs his hat on is so over qualified it is almost irrelevant. He goes further and states:

The only information the Solicitor-General considered on this matter was that given to him by the head of his department, Mr Ian Kowalick.

He did not even have a copy of the letter of 9 July sent by former Premier Brown. The only way the Solicitor-General got a copy of that letter that finally signed off was when the Auditor-General gave him a copy. What you put in one end, Premier, with a lawyer will influence what comes out the other.

The Premier withheld information from the Solicitor-General. He did not give him all the information. He did not give him all he should have had. He ensured that the Solicitor-General had limited information on which to make that decision. I will go on about other people's views on this contract, and I will read an article written by a well renowned person, highly respected in some circles in this Parliament and around the community as a finance writer, former Chief of Staff to this Premier and current lead adviser on the sale of ETSA, one Ms Alex Kennedy. Let us read what Alex Kennedy, someone whom the Premier holds in high regard, said about this contract:

In a move that has the radio communications industry in uproar, the South Australian Government has awarded a \$60 million supply contract to Motorola without calling for tenders. Motorola, already the benefactor of a \$16 million State Government incentive package, has been announced as designated supplier of mobile radio equipment for the Government network, which includes ambulance, police and fire service. It is a sudden about face by the Government, which just a few weeks ago was still preparing the criteria for tendering. The Government had said in public and in Parliament that the tendering process would be followed and it had released the names of the companies it intended to invite to tender. By ignoring the process the Government has flouted the State Supply Act.

That is not the Labor Party or this side of politics, but the Premier's own lead adviser to sell ETSA—the Premier's own former Chief of Staff, somebody whose advice he respects and holds dear, as he is entitled to do. That is what Alex Kennedy said about the contract. She went on further to state:

The Motorola contract has been found to be directly linked to the incentive package that was offered two years ago to Motorola.

Alex Kennedy knew it was a side deal. This side of politics knew it was a side deal. All the other companies that thought they would have a fair crack at this deal knew it was a side deal. The Premier continually misled the Parliament on this issue and continually deceives the public on the true matters behind this. But is that not just typical of this Government in relation to major contracts?

The member for Mawson will have to oversee a fire levy which will cost people \$60, \$100, or however much per year and which will finance this bit of technology. Every household will pay for this, and the only bit of hope that the Premier can hang onto is that it is subject to normal commercial criteria. Come on, wake up Government members! Since when has it been the case with normal commercial criteria to accept what another Government might or might not have done and it will simply be replicated here? If that is the Liberal Party's idea of normal commercial criteria, God help this State. You are an incompetent Government. If that is normal commercial criteria, what other mistakes have you made in the past?

Members interjecting:

The SPEAKER: Order!

Mr FOLEY: What mistakes will you make in the future?

Members interjecting:

The SPEAKER: Order!

Mr FOLEY: If that is normal commercial criteria—

Members interjecting:

The SPEAKER: Order! The honourable member will resume his seat. I call the House to order, particularly members on my right. Bear in mind that one honourable member has already been warned.

Mr FOLEY: Thank you, Sir, for your protection. At the end of the day, if that is what you consider to be normal commercial criteria, we can only wonder what will befall this State in the future, bearing in mind the water contract, the EDS contract, the Modbury Hospital contract and every other lousy deal this incompetent Government continually writes in this State.

Members interjecting:

Mr FOLEY: We have talked about the bank. We have owned up to mistakes with the State Bank, but you will not own up to mistakes; you will not open up to your incompetence when it comes to commercial contracts. The member for Mawson can get all excited, but when you introduce—

The Hon. R.L. Brokenshire interjecting:

The SPEAKER: Order! The Minister for Police will come to order.

Mr FOLEY: When the Minister for Police has to introduce a \$100 household levy to pay for technology for which this Government signed up in 1994, we will let him explain that to the people of South Australia. In all of this debate, as we have been working through the deceit, misrepresentations, deceiving and misleading of this Parliament, one issue has not received sufficient airplay and it is about time it did: the communication system we are buying. There are enough people within the bureaucracy, enough people, Premier, within your own Government, and enough people in industry who are telling the Opposition, 'We are buying a lemon that we will have to replace—

An honourable member interjecting:

Mr FOLEY: They bought it in 1994. It will be a decade later when this is implemented. We are buying analogue technology when we enter into the digital world. At the end of the day we are not buying the right equipment for the future communications of this State. That is the advice that has been given to the Opposition, as well as the Government, and members opposite know the truth of what I am saying. At the end of the day this Premier—perhaps through a bit of innocence, a bit of naivety; it might have even been an unfortunate slip—offered this deal to Motorola in his first eight months in Government because he was a little over keen and a little over zealous.

But at least show this Parliament the decency and respect to own up to that. Do not try to hide it; do not try to mislead; and do not try to treat the Opposition, the people of this State and this Parliament as a bunch of fools: we are not, Premier; we are not. I find today's tactics peculiar. A Privileges Committee found Minister Ingerson guilty of a lie, but a matter such as this raises some questions about what was fair for Minister Ingerson is a little different when it comes to this Premier. At the end of the day—

An honourable member interjecting:

Mr FOLEY: I am certainly not reflecting on the Chair at all, and if any members opposite think so they should take a point of order. At the end of the day this is a bad Government decision. Members opposite know it. How do you think the Ray Dundon letter got to the public? How do you think the Crown Solicitor's advice got to the public? How do you think

the contract details got to the public? How do you reckon the word got around?

The Hon. J.W. Olsen interjecting:

Mr FOLEY: That might have been the only bit of paper you did, because there were plenty of other bits of paper you did not. There is enough concern within this bureaucracy and within this Government to show that this Premier has done a bad deal. Do not use the sheer weight of numbers to protect your Premier. Do not use your sheer weight of numbers, in concert with the Independents, to knock this off. Let us have an inquiry. Let us get to the bottom of this. What are you afraid of? Allow the Premier to be judged. You were ready to hang Minister Ingerson out. You were ready to cut Ingo off.

You did not mind putting him out there with a Privileges Committee. Premier Olsen's leadership hangs by a thread and many members opposite would love to join in this debate on this side of the argument. At the end of the day, Premier, you deserve an inquiry into this issue; you deserve to be judged by this Parliament and ultimately found guilty of misleading this Parliament.

The Hon. R.G. KERIN (Deputy Premier): The House ought to focus on the purpose of the motion: whether or not a Privileges Committee should be established to inquire into whether the Premier misled the House on two occasions in relation to the Motorola contract, instead of the grandstanding that is taking place. I oppose the motion for three reasons: first, what we are seeing is basic ordinary politics being played out to the maximum; secondly, what we are hearing is based on confusion, which has been brought about over weeks of scrambling and misinterpretation of the facts, both in this House and before a parliamentary committee.

What we have just heard from the member for Hart backs up that point, because he strayed into areas unrelated to the issue of whether the Premier misled House: he said that a Privileges Committee should look at the technical merits of this contract compared with others. That argument highlights the Opposition's lack of basis to call for this committee.

Mr Foley: That's not what I said.

The Hon. R.G. KERIN: It is exactly what you said. Thirdly, I certainly oppose the motion and I believe that most members in this House, although they might not all stand up, would oppose this motion because it is a move to harm the South Australian economy, and it is something that this House should certainly not condone. It is an absolute stunt. South Australians are getting sick and tired of the game that is being played about who said what, when, why and how, as we have seen several times over the past few months. Quite frankly, if members opposite went out into the community they would know that people are heartily sick of it.

The Opposition is actively attempting to slow down this State for very base political reasons which have everything to do with the next election. What we are experiencing at the moment seems to be a competition between members opposite as to who can do the greatest job of slowing down the State. Today we have seen the members for Hart and Elder competing to see who can do the most harm. To those of us—and there are many on this side—who are absolutely desperate for prosperity in this State, we find these actions absolutely appalling and, in fact, treacherous as regards the future of this State.

Today's actions are yet another move to drag South Australia down and to try to scare off a company which promises to be a major contributor to this State's recovery—a

recovery that is absolutely necessary because of the actions of former Labor Governments. That is where we are left. Please do not stop us trying to attract companies to this State that will help us to recover. The motion on which we are about to vote is whether we formalise this stunt and go into weeks of confusion, stagnation and filling the media in this State with negative messages. This motion will slow down this State, which is a situation totally opposite to the issues which the Leader of the Opposition keeps stressing: jobs and the economy. All members should be well aware of the agenda behind the establishment of this committee, and I ask them to oppose this motion.

The Hon. M.D. RANN (Leader of the Opposition): I hope to be heard in silence. This motion is not about jobs. The Premier can listen to this: it is about honesty; it is about probity; it is about accountability; and it is about transparency and decency in the supply and tender process. It is about whether a Minister or a Premier is required to tell the truth in this Parliament. That is what this motion is about. It is about whether a Minister, or a Premier, if he has unintentionally misled this Parliament, then comes in to correct the record, makes every effort to change the story and tell the truth. That has not happened at all.

This House has been misled and misled on the Motorola deal and, each time he has been questioned, he has been caught out. There was no attempt to correct the record—only more cover-ups, more dodging and weaving, more trying to release bits of paper on the one hand and then, on the other hand, trying to sustain a case that is unsustainable. The Premier has misled this House not once but at least twice. Cold, caught out by his own words, plus the testimony of others.

Let us see whether any attempt has been made to correct the record. We hear from the Premier that he released the Crown Solicitor's opinion. Apparently, he does not understand the difference between the 'Crown Solicitor' and the 'Solicitor-General', because the key bits of evidence from the Crown Law office were not released publicly. They had to be forced from him, like everything else that has happened over the past few years. Bit by bit the truth comes out; drop by drop.

If there is a choice between the truth or misleading the public or the Parliament, whether it is about ETSA, Motorola or anything else, this Government always chooses to distort the story. It makes the choice to go for dishonesty and fabrication, not accountability and probity. We saw it in relation to the water deal and now we are told that, because it cannot get the sale of ETSA through, it will do the same as it did in the water deal—God help us. Remember the tender process there. Remember the stories of the videos turning off at night. Remember the probity auditor going out for dinner and so on. Bit by bit the truth came out, leak by leak, and it is happening again.

If this Premier is half fair dinkum, I would like him to produce and release all the documents about this Motorola deal. In this debate this afternoon, in the interest of a united Government, in the interest of united purpose, in the interest of telling the full story and hearing the truth, the whole truth and nothing but the truth, I would like to see two other Ministers stand up and defend this Premier, because three Ministers were involved in the process. There is the former Premier, the Minister for Human Services, Dean Brown. Will he get up and defend the record of this Premier over the Motorola deal? Of course, there is also the Minister for the

millennium bug. Will he get up and defend the Premier's record over the Motorola deal? Will both those senior Ministers testify in this Parliament and before a Privileges Committee that the Premier has told the truth to the Parliament about side deals and about the extent of this Motorola deal? I doubt it. I doubt whether we will see either of those Ministers stand up today and defend their Premier because they have a reputation to cling to and the Premier does not.

Let us go through the chronology of the Motorola deal. On 14 April 1994 the then Minister for Industry (now Premier Olsen) wrote a letter to Motorola offering it the contract to become the designated supplier for the equipment for the whole of Government radio network. That was in April 1994. On 21 September that year I asked then Minister Olsen in Parliament about rumours that informal promises had been made to Motorola about future Government work—you know, a wink and a nudge; you do this, and we will give you something later on. The Premier (then the Minister for Industry) said:

Certainly, to my knowledge, no formal or informal discussions or commitments have been given to Motorola.

Then later he said:

I repeat: there has been no formal or informal discussions with Motorola about other components of business.

That has been proven now by the Premier's own words and by the testimony of the Auditor-General, Ray Dundon, Anne Howe and other Ministers to be totally false, but he comes into this place bare faced and says: 'There has been no misleading of the Parliament; none at all.'

Then in October 1994, the Chief Executive Officer of the Office of Information Technology, Ray Dundon, wrote to Motorola following discussions to the Economic Development Authority to confirm that the Government 'is committed to the undertakings made in the various letters which have been sent to Motorola earlier this year by. . . Mr John Olsen'. That is the head of the department. Was he not telling the truth? Was he somehow misled?

Mr Conlon: We are going to find out.

The Hon. M.D. RANN: That is right; we will find out. Then in May the next year the lawyer, Philip Jackson, provided advice that Mr Olsen's 14 April 1994 letter to Motorola had exposed the Government to two possible legal actions for damages for 'misrepresentation or deceptive conduct' if it reneged on the offer of the whole of Government radio equipment contract. That was the offer that the Premier told Parliament he did not make. Here we have the Premier quoting Crown Law and the Crown Solicitor, but they are the same people who exposed the dishonesty in this Parliament and exposed totally that a side deal—a dodgy deal—was offered. These are the words: 'misrepresentation or deceptive conduct'.

Let us go forward to 20 March 1996, when the then Premier (Hon. Dean Brown) gave approval to undertake negotiations with Motorola to finalise the terms and conditions of supply as designated supplier of radio equipment for the whole of Government radio network. In July of that year, the same Premier wrote to Motorola and reiterated the Government's commitment to giving Motorola the designated equipment supply contract for the Government radio contract. 'Commitment' is the word.

Then we go to 2 December and Alex Kennedy. We have heard a lot about her: she emerges, disappears, comes back, gets paid, side deals, different titles and all the rest. In an article in the *Business Review Weekly* outlining the full story

of the Motorola contract she explains why it did not go to tender. The article revealed that it was the Motorola deal that was referred to in the 1995 Auditor-General's Report and confirmed that the April 1994 Olsen letter to Motorola was part of the incentive package given to Motorola to establish its software centre in Adelaide. Here we have the Premier's own chief adviser telling the truth in the *Business Review Weekly* about a dodgy deal.

Then on 5 August this year, the first of a series of questions from the Opposition to the Premier was asked about Motorola to establish whether the Premier misled Parliament over his September 1994 comments, which, at first, he refused to answer. However, the Minister for the millennium said:

It is fair to say that, because Motorola achieved that nomination as designated supplier for part of the equipment, that was sufficient encouragement for it to establish its software development centre in Adelaide.

On 27 August, the Premier produced a selective quote from the Crown Solicitor, which, he claimed, vindicated his position that his 'clause 17' defence was rock solid. He refused to table the full Crown Law advice. The Premier repeated his statement to Parliament, as follows:

There is no side deal.

That has now been totally proven. On 30 September 1998, the Auditor-General, Ken MacPherson, appeared before the Economic and Finance Committee—and he will do so again—and revealed the existence of the July 1996 letter, which, he believed, reignited the legal commitment of the Government to Motorola over the Government radio network. He also said that there was no open tender process for the radio equipment contract in South Australia because a similar tender process for a similar contract in New South Wales was used in South Australia. Then, on 20 October, just a couple of weeks ago, Mr MacPherson wrote to the Economic and Finance Committee wanting to change his evidence to the committee because he was not told the full truth either, in particular about the tendering process undertaken in New South Wales and how it relates to South Australia.

Then, just over the past few days, almost reminiscent of two years ago in October and November 1996, the Opposition began receiving leaks relating to the Motorola deal. They include: the Solicitor-General's advice, dated 29 September 1998; the Crown Solicitor's advice, dated May 1995; the Ray Dundon letter; and, today, the Anne Howe letter. The Anne Howe letter is very interesting, because the head of the department said that it was not signed off by State Supply—not at all. What happened is that State Supply changed the rules six or seven months later to fix it up. That is what happened.

Now we get to the nub of the issue. I have to say that the way today's proceedings have travelled is somewhat odd. In the past, of course, when a matter of privilege has been raised in Parliament, the Speaker has been asked and has agreed to undertake to find out whether a *prima facie* case exists for the matter to then proceed to a Privileges Committee. That is not the case today. As you know, Sir, I would be the last person to reflect on the Speaker, but the usual practice in the past has been that the Speaker, whoever he was, would go away, look at the facts and examine the record.

Mr Speaker, last time, you pointed out that you would have to go away and look not just at the truth of the matter but examine the statements made before in the House by a Minister under question and compare them with statements

made later. In the past, Mr Speaker, you invited the protagonists to meet with you. On the Ingerson affair you invited me down and you invited Mr Ingerson down, and you talked to us and went through the matters being raised so that you could establish in an independent way whether or not there was a *prima facie* case.

That has not happened this time. There has been no attempt to give each member of Parliament, particularly the Independents, a chance to examine the full facts and to hear your independent ruling on whether a *prima facie* case exists. I wonder why there has been a change in procedure. The Premier reflected on the political nature of Privileges Committees. He must have a faulty memory because, over the Ingerson affair, when I moved it, the motion to go to a Privileges Committee was supported by every single member of Parliament in this House. Every single one. If it was so political, Premier, if it was somehow dodgy, why did you vote for it? He was your own deputy. Why did you vote for it, if it was not a proper process? Why did every member opposite, including the Minister for Tourism, who cried out on the issue, support its going to a Privileges Committee? She supported the move for then Minister Ingerson to appear before a Privileges Committee, which included an Independent, so that it could hear the whole truth. It then reported back to Parliament and he was found guilty.

The process has changed this time, and there were some discussions before Parliament today. The member for Hart went over to talk to the Independents about the issue, and the first suggestion was that, because they are Independents, this matter should be adjourned overnight so they could consider the facts of the case and the merits of the arguments in a fair dinkum way. A few people went over to talk to the Independents, after the member for Hart, and suddenly it was changed from an adjournment overnight to an adjournment for one hour so they could look at the facts. It would look good but it would be in time to clear the Premier before the evening news. But that was changed, too, because the Deputy Premier, various Ministers and others went over to lean on them.

The strength and nobleness of purpose of the Independents is very interesting. Over the past couple of days, statements have been made about the South-East water deal. An extraordinary statement was made by the member for Mackillop about his predecessor, but he has backed away from it a little today in the media.

The Hon. M.K. BRINDAL: I rise on a point of order, Mr Speaker. I ask you to rule on relevance, Sir. We are debating a matter of privilege, not other matters before the House.

The SPEAKER: I do not uphold the point of order because, if the member looks at the text of the motion, he will see that it has the capacity to be developed out and to establish a line which leads to a specific conclusion.

The Hon. M.D. RANN: In summing up, I believe that, on some issues, the Independents are prepared to be independent. Here is one to test whether they are fair dinkum. Here is one to test whether they are prepared to adjourn the House so that they can consider the facts of the argument. It would be very interesting to see just how fair dinkum they are in terms of being Independent. We often see two coming over and one staying on the other side. It is a bit like a waltz or a watusi. One comes over, two go the other way and they change around on a roster. It is dinkum time. Most of all, it is dinkum time for the Minister for Human Services and the Minister for the millennium bug. Are they going to rise in support of their Premier and tell the full facts of the story?

The SPEAKER: Order! Before calling the next speaker, I refer members to the statement I made earlier today in referring this matter back to the House and the statement I made when I referred to the request for a Privileges Committee to be set up to investigate then Minister Ingerson. I ask members to analyse my statement very carefully on the role and function of the Speaker. There appear to be 46 other versions in this Chamber of what the role of the Speaker is under these circumstances. I also refer members to the two Standing Orders on the subject.

It would pay some members to study in more depth what is the role of the Speaker and the role of the House. On all these occasions in this jurisdiction and in every other jurisdiction in the Commonwealth and overseas, the House has passage of its own decision making. It is not the Chair. The Chair refers a matter to the House for the House to make a decision.

Mr McEWEN (Gordon): Mr Speaker, I was reflecting on your words, and notwithstanding that this process is different from the only other process that I have experienced in the place, I concur with the comments of the Leader of the Opposition in that, at that time, we were given some guidance and some assistance in relation to the matter. It is a serious matter and we would have preferred for that to be the case. However, I respect your ruling and understand that we will be voting on this matter at this time.

There are two matters here, and I believe that they have been tangled up. One matter will not be concluded today, and that is the matter that the Economic and Finance Committee is addressing, which concerns Motorola, Telstra, the GRNC, and Astro Smart Zone and Tetra protocols. It is a complex matter, but, more importantly, it concerns the expenditure of up to \$150 million. I have concerns about that process, I am part of that investigation and not all witnesses have been called. Further witnesses will be called when we meet again next week. That matter will proceed, and the appropriate time for this House to address concerns about Motorola, Telstra and GRNC is when the committee reports.

Mr Conlon interjecting:

Mr McEWEN: Thank you, Patrick. At the appropriate time, this House will need to consider the report of the Economic and Finance Committee on that term of reference. The matter before us today, though, is very specific. It asks us to determine whether or not we believe a case exists to investigate whether the Premier, at the time a Minister, misled the House; therefore at the time the statement was made, it was made believing it to be wrong.

Quite frankly, in the mix of debate about this issue and the related issue to do with Motorola, I have not been convinced that this warrants any investigation at this time. I do not believe that members opposite have convinced me, members on this side, and the public at large that they have provided any evidence which points to the fact that, at the time the statement was made, the person who made it did so believing it to be wrong.

It is very different from the Ingerson case. In the Ingerson case we had a statutory declaration. We had evidence that a statement was made and that, at the time the person made it, the person knew it was wrong. If we were to proceed on this matter, you would need to establish one thing and one thing only: at the time the statement was made, the person making it believed it to be wrong. You have not convinced me, and I cannot at this time support your motion.

Mr LEWIS (Hammond): Personally, I believe the Parliament ought to establish the truth or otherwise of the allegations that are made by the Opposition, because it damages us as a Government to have those allegations unsubstantiated and unresolved. They refer to documents which they say will prove the case. I cannot determine that: a committee could. However, no one individual is prepared to swear the truth of what they know—or if there is, this House does not know of it—and the Opposition today has produced no evidence of that. It would satisfy me and I believe it would be in the best interests of South Australia if it were possible to establish rapidly the truth of whether or not the documents the Opposition claim it has prove that the former Minister, now Premier, misled the House and had the intent to do so when he made statements to the House.

As is the case in the argument presented by the member for Gordon, that is not available to me and, as is also the case—I think implied by the member for Gordon—it is not in the best interests of government of the State to pretend that there is something to answer without having a sworn statement to that effect and establish a committee to investigate that pretence, only to find at the end of the day that, if there is no base, no-one is accountable and that the public has been, maybe in the reporting of the matter, led and misled into thinking that there was something wrong. That damages public trust in us and our role as an institution to provide the base from which Executive Government can derive its authority.

Had the Opposition more carefully thought through what it was doing, it might have succeeded. As it stands, it cannot. More particularly, the matter of investigation before the Economic and Finance Committee—this matter, but not exactly this matter, rather the matter of the contracts—will provide all members of the Parliament with a report on those contracts so that they in turn can determine whether there are irregularities that require further investigation which the Economic and Finance Committee does not have the power to investigate. If that is the case, accordingly the Economic and Finance Committee, I would expect, will make a recommendation, and the matter will be resolved then on the floor of the House. It would have been my wish to have it dealt with forthwith. It is not possible for me to come to that conclusion forthwith. Therefore, I will await the outcome of the investigation of the Economic and Finance Committee and its report before I decide whether or not there has been some misdemeanour.

I tell the House in all sincerity that I attempted many times when I was in Opposition to draw the attention of the House to such matters as arose in the way Marineland was dealt with and I received no joy from either the Opposition or members of the Government in that regard. And there were other matters during the 1980s of similar ilk. In this instance, I know that I will be able to rely on the information provided to the House by the Economic and Finance Committee, and I will await its report. I do not support the motion.

Mr CONLON (Elder): This debate has not been about whether the contract with Motorola is a good one. It certainly has not been about our view of Motorola. We have made clear that we have no criticisms of it. I note that the Deputy Premier failed to abide by a request of Motorola not to politicise the comments made by it in the *Advertiser*, not to suggest that we were frightening it off from this State, because it wrote to us and it wrote to you and it said it was not true. I also say this: the Premier's comments regarding

my remarks in the Economic and Finance Committee that he was off the hook lead me only to doubt further the credibility of the Premier, because I never said those things. If I ever said that the Premier was off the hook, it would have been with incredulity in my voice.

The issue is not about jobs but about whether the first Minister of this Government is entitled to ignore the first principle of the Westminster system, that is, that you have to be honest and candid with the Parliament. The issue is as follows. We asked the Premier whether there were side deals. The member for Gordon said, 'It's a question of what was said at the time.' I will say this about the member for Gordon: he has been trying to weasel out of this inquiry for the past few months, and he has not been able to do it, and we will not let him do it. However, he will not be able to get out of it by asking, 'Was it true at the time it was sent?' On 27 August 1998, this Premier said there were no side deals. I simply ask the House: if there were no side deals, why did Motorola get the contract to become the designated supplier contrary to any process ever known to this State before? Without any open tender, why did it mention the Premier's letter in the recital to that contract?

The most damning evidence today in this debate comes from the silence of two individuals. Former Premier Dean Brown could have stood up in this House and said, 'The Opposition is completely wrong.' He was the one who sent a letter to Motorola. He could have stood up and said, 'Motorola didn't get this deal because of any side arrangement with John Olsen. I was around at the time, and I know why it got it. It got it because of this.' The former Premier could have stood up and blown the Opposition's argument to pieces if, in fact, the truth is that there was no side deal. However, the reason the former Premier sat there and remained silent is that he knows there was a side deal. He knows that he as Premier was obliged to give the contract to Motorola. He knows what the circumstances were and, while he is prepared to be silent, he is not prepared to stand up and tell untruths for the current Premier—and neither should he, because he owes them no favours.

The other silence that is most damning in this case is the silence of the Minister for the millennium bug. He knows the details of this; he was the relevant Minister at the time; he knows all that went on. He also could stand up and blow our argument out of the water. What remains unanswered is the following question. And, for the benefit of the member for Gordon, I turn to the Premier's comment of 27 August 1998:

There is no side deal.

If there was no side deal, can someone on the Government side please explain why Motorola got a multi-million dollar contract without a tendering process?

The SPEAKER: Before putting the question, I remind the House that we are as yet to implement the sessional orders relating to division times. Standing Orders, which set the time at 2 minutes, therefore still apply. With the indulgence of the House, I will ring the bell for 3 minutes on this occasion.

The Hon. DEAN BROWN: I rise on a point of order, Mr Speaker. The House ought to know exactly what the final motion was, because I do not think it has been read to the House.

The SPEAKER: I concede that. The motion before the Chair is as follows:

That this House establish a Privileges Committee to investigate assertions that the Premier misled this House on two occasions in regard to the Motorola contract.

The House divided on the motion:

AYES (19)

Atkinson, M. J.	Bedford, F. E.
Clarke, R. D.	Conlon, P. F. (teller)
De Laine, M. R.	Foley, K. O.
Geraghty, R. K.	Hanna, K.
Hill, J. D.	Hurley, A. K.
Key, S. W.	Koutsantonis, T.
Rankine, J. M.	Rann, M. D.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	White, P. L.
Wright, M. J.	

NOES (23)

Armitage, M. H.	Brindal, M. K.
Brokenshire, R. L.	Brown, D. C.
Buckby, M. R.	Condots, S. G.
Evans, I. F.	Gunn, G. M.
Hall, J. L.	Hamilton-Smith, M. L.
Kerin, R. G. (teller)	Kotz, D. C.
Lewis, I. P.	Matthew, W. A.
Maywald, K.	McEwen, R.J.
Meier, E. J.	Olsen, J. W.
Scalzi, G.	Such, R. B.
Venning, I. H.	Williams, M.R.
Wotton, D. C.	

PAIR(S)

Breuer, L. R.	Penfold, E. M.
Ciccarello, V.	Ingerson, G. A.

Majority of 4 for the Noes.

Motion thus negatived.

GRIEVANCE DEBATE

The SPEAKER: Order! The question before the Chair is that the House note grievances.

Mr HILL (Kaurna): This afternoon I would like to talk about honesty and the South-East water issue. On 28 August the member for MacKillop made certain comments in his Address in Reply contribution that have sparked off a number of statements and articles in the media over the past couple of days. I would like briefly to read to the House the guts of those comments. In relation to the South-East water management issue, the member for MacKillop said:

All the problems started in the middle of June last year, when the then member (Hon. Dale Baker) was contacted by two of his constituents. . . They said, 'We really need more water than we will get under that policy for our development'. . . The honourable member then came back to Adelaide and said he would solve the problem, and indeed he did. He was solely responsible for changing from the policy that the then Minister had invoked to the policy under which we have been suffering ever since. . . I [the member for MacKillop] talked to him [the former member] in August about this subject. He told me he was responsible for it. . .

They are pretty clear, unequivocal words. On ABC TV on 29 October the Premier was interviewed, and the Leader of the Opposition has already spoken about this today. The Premier was asked:

Reporter: Have you discussed water policy with Dale Baker. . .
Olsen: No.

Reporter: . . . for the South-East?

Olsen: No.

Reporter: He has never raised the issue with you?

Olsen: No.

So, we have the Premier contradicting the member for MacKillop on whether or not Mr Baker had been involved in deciding issues to do with water allocation in the South-East. Then today, 4 November, an article in the *Australian* indicates that Mr Baker was asked the question by a reporter and states:

Millionaire Liberal power broker Dale Baker has denied he influenced a controversial new Olsen Government water policy. . . Mr Baker, contacted at a London hotel yesterday, described the claims as 'absolute rubbish. . . fairyland stuff.' He said, 'I don't ever recall talking to Mitch Williams, full stop.'

We now have the former member for MacKillop's denial, so we have three pieces of information: what the Premier said, what the member for MacKillop said and what the former member for MacKillop said. Today in Question Time the Opposition tried to establish the truth of this matter. We asked the Premier whether or not he stood by what he had said to ABC TV on 29 October. In fact, he thought that question referred to discussions this year and he said 'Yes,' he might have had discussions with the then member for MacKillop in 1997.

I then asked the Premier today if he had had a meeting with the former member for MacKillop at which the former Minister for Water Resources (David Wotton) attended, and asked, 'Was that Minister told that he had to change the policy?' While the Premier did not say 'No' to that question, he avoided answering it and we are left none the wiser about the truth of that matter. Then I attempted to ask a question to put it even more clearly before the Parliament, whether or not the current member for MacKillop was telling the truth or whether the former member was telling the truth about who was responsible for the current water allocation policy. As you know, Sir, that question was ruled out of order.

Before I had a chance to ask it in a revised sense, there was the privileges discussion. Unfortunately, for the current member for MacKillop, the question is hanging over his head—it is raised over his name—as to whether or not he was telling the truth when he made the allegations he made in the Parliament the other day. The Premier, who could have sorted it out, did not have the opportunity to do that. Unfortunately there are problems with this issue in terms of who is telling the truth.

Tomorrow I will be moving that we have a select committee to get at the truth, and this will give the current member for MacKillop an opportunity to produce the evidence before the Parliament about the role of Dale Baker. He will be able to stand up for his electors whom he promised during the election campaign that he would resist the moves that Dale Baker was attempting to make to change the water allocation system in the South-East. It will also give the former member (Mr Baker) an opportunity to address his critics, and the former Minister, the member for Heysen, an opportunity to explain why he did change his policy. Was the member for MacKillop or the former member (Mr Baker) telling the truth?

The SPEAKER: Order! The honourable member's time has expired. The honourable member for Colton.

Mr CONDOUS (Colton): I rise to speak about some recent allegations made, the first of which were made on the Channel 2 Friday evening news, when an Adelaide City Council candidate and resident in the south-east corner of the city, Kym Winter Dewhurst, was reported as saying that he was running for the Adelaide City Council to stop Steve

Condots politicising the City Council. It seems ironic that Mr Winter Dewhurst should make political allegations against me when he is a journalist with the publication *Public Sector Review* and a former journalist with the Democrats: first, with Senator John Coulter and then for Ian Gilfillan. For him to suggest that he is not politically aligned is a load of absolute rubbish, and I intend to notify the electorate of his political affiliations and to circulate them quite clearly.

Secondly, in the current *Adelaide City Messenger*, Councillor Elbert Brooks said he had decided to renominate for council because I, as a State Government politician, was getting involved in the council election by supporting Richard Hayward. The irony is that Councillor Brooks is closely aligned to the extreme left wing of the Labor Party, a close friend and supporter of Mr Peter Duncan, and also has made no secret that Mr Duncan will support him in his quest to become Lord Mayor of Adelaide. Mr Brooks is referred to by many people in North Adelaide as the 'darling of the North Adelaide Labor chardonnay set', although I do not know what that means. I have asked a few members opposite but they say they are not part of the chardonnay set so they would not know.

I have something to say to Mr Dewhurst and Councillor Brooks. I have a financial interest as a shareholder in the Adelaide City Council, paying probably 20 times the council rates that each of them contributes, and also have an interest in watching the council progress. I not only support Richard Hayward but I believe that people of the calibre of Alfred Huang, Roger Rowse, John Rowley and John Bowman should represent the ratepayers of the city, just as strongly as I support my very good friend Chris Magasdi—and, in fact, also Elbert Brooks, having told people that he should be there. Of those I have mentioned, there is no doubt that they are from both sides of politics, but that does not worry me one little bit.

All I want to see in the end is a council able to make strong decisions for the benefit of not only the ratepayers of the city but all South Australians who use the city. The realities are that some \$36 million per year comes from council rates but \$50 million additional per year comes from ordinary South Australians who use parking meters, car parks, council utilities, pay parking fines, use the Central Market and generally patronise the city and its council-owned facilities. I want a council that can work closely with the State Government and achieve for the long term benefits for all South Australians, contributing to a quality of life that is unequalled anywhere else in the world and the very reason that we choose to live in Adelaide.

I do not care in the end to which side of politics the council members belong, as long as they are contributors to and passionate about the City of Adelaide. The reasons I decided to support Richard Hayward are, first, that I served with his father Ian on the Adelaide City Council, and because of the contribution that the Hayward family has made over 103 years through John Martin's departmental store, an Adelaide icon and great retailing giant in this city which was decimated by interstate people who had absolutely no interest in John Martin's, no interest in Adelaide, and were hell-bent on destroying a fine store.

The Hayward family also gave South Australian children John Martin's Christmas Pageant, and I believe that Richard, a young man, can make a major contribution to the city, and do it with a passion. But he cannot do it alone. When people ask me who they should support, not only do I mention his name but, as I indicated before, I mention the names of

Alfred Huang, Chris Magasdi, Elbert Brooks, Roger Rowse, John Rowley and John Bowman.

Mr Atkinson interjecting:

Mr CONDOUS: I think he is one of those in the eight who should be there.

Mr Foley: Anne Moran?

Mr CONDOUS: I have not mentioned her, I can tell you. All I want to see in the end is a council that is committed—a small council of some eight people who will work with Governments of all persuasions for the benefit of all South Australians. As for those who are saying I am being political, that is absolute rubbish. The people who are saying it, both Mr Dewhurst and Elbert Brooks, are more political than I will ever be.

Mrs GERAGHTY (Torrens): I wish to refer to another two of my constituents who are elderly and in poor health and have been for quite some time. These people have directly experienced a service reduction in the Modbury Hospital which was attributed to lack of staff. Due to a severe asthma-related condition, the wife of my constituent had to have an ambulance called, and it arrived at their home at about 2.45 p.m. on 2 November. The ambulance took the lady to the Modbury Hospital where she remained in the emergency section of the hospital until some time after midnight that evening.

The couple were informed by the treating doctor at 10 p.m. that, due to a lack of staff, no beds would be available and that she would have to be admitted to either the Royal Adelaide or Flinders Hospital. Her husband believes that it was quite late and well after midnight before his wife was transferred to the Royal Adelaide Hospital. By that time she was very disorientated due to the severity of her asthma attack. It was not until about 4.45 a.m. on 3 November that my constituent was admitted to a ward in the Royal Adelaide Hospital.

I concur with my constituents that this is an absolutely outrageous situation. She was shunted around like a piece of cargo at Adelaide Airport. She may have been treated slightly more gently, but she was shunted around, nonetheless. On behalf of my constituents I ask the Minister to tell the House why not enough staff are on duty late at night so that patients can be admitted to beds in the Modbury Hospital wards. My constituent's husband told me that his wife definitely was not transferred to the Royal Adelaide Hospital because her condition was considered life threatening or not treatable at Modbury Hospital. I asked him to speak again to his doctor to check that and it was confirmed. In fact, the doctor was clear as to the reasons for transferring my constituent's wife to the Royal Adelaide and that was that there were simply not enough beds due to lack of staff. It is an atrocious way to treat any patient, much less a senior citizen, and does not inspire any confidence in the people of the north-eastern suburbs who rely on the Modbury Hospital for their health care needs.

It also adds to the low morale of the staff, who are dedicated health care professionals and who have to bear the brunt of public frustrations regarding the reductions that have continued and no doubt will continue in the services at Modbury Hospital. I am also concerned about the additional pressure the unavailability of staff at Modbury Hospital, with these patient transfers, has put on other hospital services—the resources and staff at the Royal Adelaide and Flinders Hospitals. I would appreciate, on behalf of my constituents, the Minister's investigating this matter and making public the

results of these investigations. The Government clearly owes an explanation to the people in this city about the way our public hospital services are being run down. This case is just one example among the many that have been raised in this House about the way these hospital services are affecting people right across South Australia.

Transferring people from the north-eastern suburbs down to the Flinders Medical Centre, when patients who attend Modbury cannot find a bed due to lack of staff, is a ludicrous and appalling situation and a waste of money.

Mr LEWIS (Hammond): This afternoon I will address a matter that I would otherwise have addressed in the course of the Address in Reply debate, had the opportunity presented itself, namely, the necessity for us to teach morality, the precepts of people's behaviour and the precepts relevant to it. I refer to a book called *Notes of Lessons on Moral Subjects—a Handbook for Teachers*, the preface of which states:

The requirements of the Education Department make some such manual as the present one an absolute necessity. It will be noted that the school management paper set to candidates for certificates generally includes notes of lessons on some moral subjects. What is more directly to the point is circular No. 153, addressed by the Education Department to Her Majesty's inspectors of 16 January 1878, to which attention is now specifically drawn.

In this day and age the decision has been taken in our Education Department to explicitly exclude the teaching or discussion of morals but rather to leave it to the individual child and/or whatever influence they may otherwise be subject to, be it their parents, other members of their family or the wider community. In consequence of that we now find a large number of children growing up as young adults being prepared to engage in the kind of behaviour we see illustrated on the front page of the *Advertiser* today, where some four juvenile thugs, the only way one can describe them—certainly villains and criminals—were involved in theft and a good many other misdemeanours and saw absolutely no reason whatever why they should have any feelings of recrimination or remorse for what they had done. Too often that kind of thing is happening.

Altogether the examples necessary and the discussion of what constitutes enduring sustainable behaviour in a society where nobody has any rights, unless we all accept responsibilities, are sadly missing from the education system today. In the front of this book we read:

In using this manual teachers are recommended as far as possible to enforce and illustrate the lessons by suitable reference to Holy Scripture.

Whether or not we believe in what Jesus Christ stood for and told the community of the day in which he lived, or even if we may not believe in the fact that he existed 2 000-odd years ago or thereabouts is beside the point: what he had to say or is reported to have said is certainly very relevant to the formation of character and the individual that makes a sustainable civilised society possible; and, more particularly, so does the teaching of the Old Testament, which has stood the test of time as it has served not only the society of Jews but also the Christian society on Earth as well as the Muslim society.

One passage in the book is relevant in the context of everything we do here in this Parliament, wherein we need to set an example. Indeed, children need to be encouraged to do likewise, and perhaps the best way to illustrate that point

is by entreating them or anyone of us, anywhere, to heed what Longfellow had to say in that immortal verse:

Lives of great men all remind us we can make our lives sublime,
And departing leave behind us footprints in the sands of time.

If what we do is not something for which we are prepared to be accountable or something that would not stand the scrutiny of people we respect, we ought not to be engaged in the work we do here in this Parliament and we ought to be ashamed of it. More often than not it is important for us to remember the reasons why it is necessary to admit that we do not always act up to our own injunctions, just as there may be difficulties in the way in which a guide cannot overcome. Still such injunctions then must lose weight. Let us remember that it is as well to tell people what we believe ought to be so and attempt to live up to it and, if we cannot, admit that we have failings.

Mr FOLEY (Hart): I rise to speak on an important issue in my electorate, an issue I have been extremely concerned about for some time, namely, contamination and hopeful remediation of an area in my electorate commonly known as the Meyer Oval site. I have spoken in this place on a number of occasions about the need to rehabilitate and remediate this area, and in debate with the Minister for Government Enterprises I achieved a commitment for rehabilitation and remediation of this site to occur. It is a tract of land that for many years served the community of the Le Fevre Peninsula in a substantial way as a community oval. It was used by many sporting groups, clubs and individuals in the area and I have fond memories of playing many a game of football and the odd game of cricket at the oval.

A number of years ago it was left to become overgrown and simply not be a viable venue for local participation by young people in my community. The Government has title over the site through a number of agencies—the Ports Corporation, the then MFP and now the Land Management Corporation. The Port Adelaide Enfield Council had a right of care in terms of maintaining the facility. After achieving from the Minister for Government Enterprises (Hon. Dr Armitage) a commitment to rehabilitate it, I pressured him and ensured that a day rarely went by without my writing, telephoning or raising the matter with him, his office or his agency to ensure that his commitment was followed up. I received a disturbing letter back from the Minister, but it does hold out a ray of hope. Part of the letter states:

The Meyer Oval site and the adjacent pivot site are contaminated with various heavy metals and chemicals. Some have originated from materials dredged from the nearby Port River to fill the site and some came from dumping waste material from the former acid plant. Furthermore, as a result of shallow ground water conditions and ground water flows, which are generally towards the east, the ground water beneath both sites has become contaminated and is slowly spreading. Copies of the plan showing site areas and the approximate extent of the contamination are attached.

The letter goes on to talk about some money that had been earmarked under Better Cities money to the old Port Adelaide Council, which it simply did not spend or spent on other projects. The letter goes on to say:

The Land Management Corporation has considered a wide variety of remediation and development strategies for the site. It is now proposed to adopt the following development strategy:

1. Remediate parcels B and C and the former acid plant site D for recreational open space.
2. Immediate disposal of parcel A—part of the former Meyer Oval site—as broad acre for residential development.

3. Immediate transfer of 'Metropolitan Open Space System' zoned land to the Port Adelaide Enfield Council for care, control and management.

4. Retain the balance of the site pending resolution of a land use and remediation strategy.

Action issues will follow, and the Minister outlines that a number of things will occur: a community consultation program with stakeholders; to undertake further environmental site investigations; to seek approval for the final remediation strategy from the EPA; and to undertake discussions with Pivot with respect to its obligations to remediate its portion of the site. I thank Minister Armitage for that response in a truly bipartisan manner, and it is important that I do that. However, I am calling on the Government to go further.

There is clearly an urgent need for an environmental audit of the Le Fevre Peninsula, particularly for the Meyer Oval, Strathfield Terrace and Taperoo areas. The fact is that contamination is leaching into ground water and it is spreading. Heavy metals and a whole array of nasty chemicals are present on this site. Many good people live in that area, constituents of mine, who deserve better from not just this Government but from all Governments—including former Labor Governments—from business and, particularly, from the local council.

We need an environmental audit to determine the extent of the problem. The Government needs to work collectively with council and the Opposition towards remediating those areas. It is a good move by this Minister to acknowledge that there is damage and that a plan is in place to remediate these areas, but I ask him to go further and implement an environmental audit program.

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

The Hon. R.B. SUCH (Fisher): During the brief time I have I would like to canvass a range of issues.

Mr Atkinson interjecting:

The DEPUTY SPEAKER: Order!

The Hon. R.B. SUCH: The first issue relates to road safety. I am delighted that one of our standing committees is looking at the issue of road safety because it is an issue that has been of concern to me for a long time. I believe that the current training for would-be motorists is grossly inadequate. I believe that opportunities exist to improve the technology we use, including simulators, which are currently used for training pilots, and to go beyond what we do now, which is to test people on the adequacy of their so-called driving skills in daylight hours on fine days in shopping centres and suburban streets.

I will not canvass all of those issues now, but I will appear before that committee and make a submission that the important issue of road safety be addressed. Another matter I wish to raise is that I believe South Australia should be called the 'Festivals State'—plural. That is not to detract in any way from the Festival of Arts, which is a marvellous series of activities focused on the arts. One way in which a State can generate employment and create wealth is to increase the number of festivals of all kinds. I am pleased to see that shortly South Australia will be staging a V8 competition—not that I am a petrol head. People call me other terms, but I have never aspired to be a petrol head.

It does not matter whether it is a rose festival, a V8 festival or the festival of push bikes, for the member opposite who has a particular inclination that way—the point is that those sorts of festivals can be created. I notice that the

Northern Territory Government has sponsored such things as a draughts championship. It does not matter whether it is chess, or whatever, this State should actively promote and expand its range of festivals. I applaud those recent initiatives; they are worthwhile and should be encouraged.

Another matter that concerns me relates to the environment. I accept that it is not the number one environmental issue, but I am concerned about the issue of litter, which is obviously a visual problem because it detracts from the aesthetics of our community. I urge that we now move to place a container deposit, or some impost, on take-away food containers and some of those other drink containers which currently do not attract an impost. Wherever one travels, and it is often within a kilometre, or so, of one of the take-away food places, one will see wrappers and containers strewn about the place. I believe that it is quite reasonable that people who consume these products pay some additional impost to cover the cost of the litter they inflict on the community.

One would hope that people did not throw away their containers, but the reality is that some people do and, when that occurs, the rest of the community should not be responsible for cleaning up that litter. If the community does have to clean up that litter, some money should be made available from a central fund to assist in that task. While I am talking about containers—and, I guess, milk containers come within that category—members should appreciate that the retail price of milk in South Australia, I believe, is a rip off. The dairy farmer receives about 49¢ per litre for white milk. By the time it is sold in the various outlets it costs between \$1.45 and \$1.50 a litre.

That is not a bad little mark up for the duopoly that operates in this area. I believe that it is about time we had some genuine competition in the market. I see long-life milk coming from interstate, and that will increasingly happen if the companies concerned do not get their prices in order. When one looks at flavoured milk, which is drunk in large quantities by young people, one can see that people are paying exorbitant prices. The price suddenly increases for the addition of a little bit of sugar and coffee, and I believe that those prices are totally unjustified. It is a variation on a theme in terms of disposable containers, but we also see those flavoured milk containers thrown around. It is unfair that cool drink containers incur a deposit and that cardboard containers are basically exempt.

Finally, I return to my theme of wishing to see our railway stations brightened up. I know that some stations are heritage listed and that it is appropriate that they be painted in brown and green—

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

Mr MEIER: Mr Speaker, I draw your attention to the state of the House.

A quorum having been formed:

SITTINGS AND BUSINESS

The Hon. R.G. KERIN (Deputy Premier): I move:

That Standing Orders be and remain so far suspended as to provide that when any division or quorum is called the division bell

will be rung for three minutes, with the Clerk determining three minutes by using the debate time clock.

Motion carried.

The Hon. R.G. KERIN : I move:

That for the remainder of the session, Standing Orders be so far suspended in relation to private members' business as to provide that—

- (i) after Grievance Debate on Wednesdays for one hour—motions relating to standing committee reports;
- (ii) 10.30 a.m.-12 noon on Thursdays—Bills, motions with respect to committees (except reports of standing committees) and motions for disallowance of regulations; and
- (iii) 12 noon-1 p.m. on Thursdays—other motions; provided that—
 - (a) Notices of Motion will take priority over Orders of the Day in (ii) and unless otherwise ordered, for the first 30 minutes in (iii);
 - (b) if all business in (ii) is completed before the allotted time the House proceeds to (iii);
 - (c) if all business in (iii) is completed before 1 p.m. on Thursdays the sitting of the House is suspended until 2 p.m.;
 - (d) the following time limits will apply—
 - Mover, 15 minutes;
 - One member opposing the question, as deputed by the Speaker, 15 minutes;
 - Other members, 10 minutes;
 - Mover in reply, five minutes;
 - (e) an extension of 15 minutes may be granted, by leave, to a member moving the second reading of a Bill;
 - (f) leave to continue remarks may not be sought by any member, but a member speaking when the allotted time for that category of business is completed has the right to be heard first when the debate is next called on;
 - (g) notices of questions ordinarily handed in by 9 a.m. on Thursdays must be handed into the Clerk Assistant by the adjournment of the House in the preceding day.

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE: GAMBLING

The Hon. R.B. SUCH (Fisher): I move:

That the eleventh report of the committee on gambling be noted.

I have had the privilege of being a member of this committee since December last year. The committee has been ably chaired by the Hon. Caroline Schaefer. I point out at the outset, in a lighthearted way, that I am related to the Hon. Caroline Schaefer and, for that, I apologise to her—you cannot choose your relatives. However, we are distantly related and I should put that on the record at the start. I believe that during the time I was on the committee it worked carefully and thoroughly when looking at the issues.

The terms of reference it was given originally arose out of concern for electronic gaming machines, but the terms of reference were not limited to electronic gaming machines. For the benefit of members, I will outline the terms of reference, which were as follows: first, that the Social Development Committee be required to inquire into and report on the extent of gambling addiction that exists in South Australia and the social and economic consequences of that level of addiction; and, secondly, the social, economic and other effects of the introduction of gaming machines into South Australia and any other related matters.

The committee deliberated for over 13 months and took considerable evidence. Some members also visited particular gaming venues, and indeed the committee did so locally. However, some members went interstate to look at various

casinos and other related gambling activities and, as a result, the committee certainly was better informed.

It is a difficult issue, and I should also say at the outset that I voted for electronic gaming machines. I made that quite clear to my electorate and I was threatened by many people that that would be the end of me. I explained to my electorate why I did that and, even though I am not a great gambler and I think electronic gaming machines are not the ideal form of entertainment, I take the liberal view that people have a right to engage in activities unless there is an obvious and easily demonstrated negative impact that is so serious that you have to prohibit availability in the community.

There was an inquiry in New South Wales by Sir Laurence Street that found that electronic gaming machines had a negligible impact on the community in a negative way. When I explained that to my electorate, as members can see, the election result brought me back into this place. What I did not agree with—and still do not agree with—is the method of operation of those machines. What I was keen to see implemented was a scheme similar to that which operated in New South Wales where a person could play the machines for many hours and they might lose \$5 or win \$5. Whilst I supported their introduction, I have been and still am critical of their mode of operation.

I need to put that on the record so that people do not say later that I tried to hide the fact that I voted for them. I did so because I believe in freedom of choice ultimately, and it is not to say that I am either a keen or extensive gambler. My contribution to gambling is usually modest through Cross-Lotto. Yesterday, I had a small wager. In both cases, I regard it as a donation towards the State Government to assist the Treasurer in his onerous task of funding the State. I will go through the recommendations of the committee briefly because they are important.

Mr Atkinson interjecting:

The Hon. R.B. SUCH: I know the member for Spence will take great note of these because during the committee he and others, including myself, had a very enjoyable and interesting time discussing what became the recommendations. The first one relates to the role of the Treasurer. The committee has argued that no one Minister should be solely responsible for all areas associated with gambling activities, and in particular, to avoid potential conflict of interest, the Treasurer's commitment should involve the receipt of revenue only. I think members can see the logic behind that; that is, we do not want a Minister receiving money on the one hand—not personally but on behalf of the Government—and, on the other hand, actively promoting gambling. The committee was trying to distinguish and to separate those two roles.

The committee also recommended that we should have a code of advertising practice appropriate to each gambling code and that it be presented to the Attorney-General and tabled in Parliament no later than the first sitting day in 1999. To that end, it is fair to say that the committee was impressed with the efforts of the Australian Hotels Association which has been a leader in adopting a code of practice. Similarly, the committee was concerned about some of the advertising practices of the Lotteries Commission—and some members may have more to say about that later.

The committee recommended that a ceiling of 11 000 gaming machines be imposed, with the cap to be reviewed biennially, the long-term aim being to reduce the number of gaming machines in South Australia to less than 10 000. The committee also recommended that the statutory limit of

40 gaming machines per venue, excluding the Casino, be retained, but the committee made the point that it was opposed to the establishment of what it saw and labelled as 'pokie parlours' where electronic gaming machines were about the only activity. That is, a minimum in the way of meals is provided and, in short, they are just a narrow gaming facility.

The committee recommended that all gambling codes should contribute to the Gamblers' Rehabilitation Fund, and one could argue on the basis of equity that is fair and reasonable. They all contribute to the problem, so they should all contribute to the solution, partial though that may be. The committee also recommended that local government be notified and have the right to be heard by the Liquor and Gaming Commissioner before any decision is made to grant a gaming licence in a local government area or to expand the number of gaming machines. That has been well received by local government because it means that the local citizenry can have some input into those decisions.

The committee also recommended that all gambling venues be required to display in a prominent position appropriate and relevant information on how to contact gambling rehabilitation and counselling services. Once again, on the principle of freedom of choice, it acknowledges that some people need assistance because 2 per cent of people are defined as problem gamblers who may need assistance. Hopefully, people will seek help before they become chronic or problem gamblers.

In terms of public awareness, the committee recommended an education program highlighting the risks of excessive gambling, such as school-based education programs and the like. I will not go into the details, but the aim is to make people aware of the risks of gambling. The committee was concerned about the development of Internet and other interactive home gambling and advocated that, ideally, interactive home gambling should be banned. It recommended that the national task force investigate the technical feasibility of achieving that aim. The committee is aware that there are difficulties, but the United States has chosen to go down that path and the committee felt that we should do likewise. A range of recommendations have been made concerning Internet and other electronic gambling which will be available in the home situation. The dangers of children and young people accessing credit cards belonging to their parents were evident to the committee as potential risks.

In terms of gaming machines, the committee has recommended that linked jackpots remain illegal in South Australia. Although they are legal in some other States, the committee felt that we did not want that activity here. The committee recommended that a moratorium be placed on gaming machines being able to accept paper money. Being a modest backbencher, I do not carry a lot of paper money—I usually carry a small number of coins—but it is an action recommended by the committee so that more affluent members of Parliament and members of the community are not tempted to spend their paper money in those machines.

One might see it as tokenistic, but it was felt that it was a small step towards dissuading some people from spending large amounts of money. Time will tell whether it is effective and, if one is a purist, one could argue that it could never be tested strictly on a research-oriented basis. The committee recommended that we should look at the possibility of a time lapse between a major payout and the resumption of play on a machine. There was a lot of debate about the feasibility of that—

Mr Atkinson interjecting:

The Hon. R.B. SUCH: We know that the member for Spence could hop on his bike, go round the block and cool down, but it would not be an easy thing to implement because, if one person is winning a jackpot on one machine and it makes a lot of noise, it will get people salivating around the corner if they are in the same room and can hear the machine. It would not be easy to implement but, if there could be an interruption to affect the psyche of people, that would be desirable.

Another recommendation is that there should be Government-funded counselling services on an ongoing basis but that they need to be monitored and evaluated, although it is fair to say that the committee was cautious in not recommending evaluation and research just for the sake of it. Research and evaluation should lead to meaningful changes, not just provide activity for researchers. All staff employed in the gambling industry should be informed about counselling and rehabilitation services. That is a common sense point so, if someone feels that their spending is going over the top, staff can advise them.

The committee heard about a minority of people who have taken gambling to an extreme and have ended up in prison, which has had dire consequences for their family. The committee has recommended that counselling and support services be developed for families of problem gamblers because the committee was struck by the fact of the domino effect. We heard about one case—and the person will remain anonymous—where the family still feels the impact of that person being gaoled. It affects not only the older members of the family but also the very young. The committee has recommended that counselling and support services be developed for families of problem gamblers.

In terms of research, because there has been a lot of media talk about the economic impact of gaming machines, in particular, it is accurate to say that there was no definitive evidence to suggest that gaming machines were responsible for car yards going broke or any other negative economic activity. Such evidence tended to be anecdotal or hearsay. However, the committee felt that it would be useful to have an independent assessment made of the economic impact of gambling.

Mr Atkinson: Not another one.

The Hon. R.B. SUCH: Whilst the member for Spence is reluctant to endorse too much research, as a majority the committee felt that was worth pursuing. In terms of the last recommendation, the committee advocated that research throughout Australia be coordinated and aggregated so that there is a flow-on benefit to the whole country. Victoria has put a lot of effort into researching gambling. It has produced an enormous number of reports and there seems little point in other States replicating what it does. The committee felt that all those reports should be aggregated and made available so that we do not get an unnecessary duplication of research.

I am pleased to have been associated with the committee. I thank not only the Presiding Member but all the members, who made a serious and significant contribution. The committee has shown its value to the community in raising issues and exploring them, and it is now up to Parliament and the community to decide what it wants to do with that report.

Mr ATKINSON (Spence): As my mother and I clutched our betting tickets while watching the horses parade before the running of the W.S. Cox Plate at Moonee Valley, my mother remarked that she was sick of politicians who wanted

to deprive elderly ladies of their innocent pleasure of playing the pokies and that, if she saw that killjoy Nick Xenophon on TV once more, she would be tempted to put her foot through the TV screen. I then explained to my mother why I did not agree with her, and I will now do the same for the House, drawing on my experience as a member of the Social Development Committee during the entire length of its inquiry into gambling.

Although the Social Development Committee's gambling inquiry turned into a whitewash of poker machines in South Australia, it did gather useful information. Australians are the biggest gamblers in the world. We bet 60 per cent more than the next biggest gamblers, the Americans; our annual per capita spending on gambling is more than six times that of the United Kingdom; and Australians lose on average \$737 a year betting, which is made up of \$363 on poker machines, \$144 at casinos, \$123 at the races, \$64 on lotto, \$16 on scratchies and \$27 on other betting.

Australian States, including South Australia, have been forced into relying on betting taxes for much of their revenue, because of the Commonwealth's long-term encroachment on the States' tax base. With 12.3 per cent of our State's revenue coming from betting, we are second only to Victoria in our reliance on betting. When the then Treasurer Frank Blevins heard that I was thinking about voting against the proposal to legalise poker machines in 1992, he asked me, 'What do you have against voluntary taxes, comrade?' Frank was expecting \$55 million in pokies revenue in the first full year. Now the Treasurer gets \$158 million a year. The revenue is spent on hospitals, schools, roads, the police and the criminal justice system, public transport and a host of good works. It does not go to landfill, nor is it consumed entirely by politicians' salaries and superannuation. Supporters of poker machines are right to ask those of us who voted against pokies in 1992 where equivalent revenue would have been found in the past six years and where we would find it if pokies were phased out of hotels, as the Hon. Nick Xenophon proposes. Hotels and clubs with pokies employ 20 000 people, 4 000 of them in work directly related to pub TAB or pokies. Some hotels have been magnificently renovated with pokies' profits, and people who would rarely have entered a hotel before 1992 have been attracted by the improved facilities, cheap food and entertainment.

States and Territories compete for the betting dollar, and betting franchises such as casinos, the TAB and lotteries advertise desperately to protect their share of the betting market and to encourage their customers into greater fantasies and follies. I would like to break free of their television adds. After an annual growth rate over two decades of about 5 per cent, *per capita* gambling increased 53 per cent in South Australia in the two years after pokies were introduced. Our spending on pokies is now 1.4 per cent of total private consumption, which may not sound much but is, in my opinion, a massive change. A society cannot undergo this much change without some people suffering.

The committee estimates that between 1 per cent and 1.5 per cent of the population are now problem gamblers. These gamblers are obsessed by betting. They chase their losses, lie to their husbands and wives about money, and borrow and steal from their families, workmates and employers. Their gambling adversely affects up to 10 other people. Some separate from their spouse, some go to prison and some commit suicide. The cost to society of this gambling is not easily quantified as are the crisp revenue figures I mentioned earlier. Women used to comprise only one-tenth of our

problem gamblers but after pokies they now comprise about one-half. We had evidence that pokies were the favoured gambling activity of pathological gamblers. A senior lecturer in psychiatry at Flinders University, Dr Battersby, told the committee:

The most critical thing in relation to gaming machines was the design of the machine and the principle of intermittent reinforcement.

Dr Battersby said:

A secondary trigger involved colours, shapes and sounds which were used to target people.

It was for this reason that I argued on the committee that we should recommend changes to the rules governing pokies to try to make them less addictive. I said that we should slow down the six second cycle of play to give gamblers some thinking space, during which they could contemplate their losses and whether there was any sense in continuing. I said that we should stop the machines from emitting noise, because this noise conveyed no useful information about the game but was designed to encourage addiction and to have subliminal effects. Silencing the pokies would also have made hotels more tranquil places for patrons not interested in pokies.

I said that we should recommend that poker machines freeze for a minute after a large pay out, to give the gambler time to reconsider his or her position. It was obvious from my inspection of poker machine venues that the venues are designed to cocoon gamblers from the world by depriving them of natural light and an awareness of time.

Mr Clarke: Like the TAB.

Mr ATKINSON: That's not true. Most TABs in this State have windows. In my local TAB in Kilkenny you can look out onto the Torrens Road or the car park. I made the modest suggestion that a clock be placed in each pokies venue and that natural light be provided, either by window or skylight, so that gamblers would know just how fast falls the eventide.

These recommendations might have been a useful gambit to start a parliamentary debate on poker machines. No doubt the majority of Government and Opposition members, fearful of any dip in Government revenue and any dip in AHA donations to their election campaigns, would have lined up to dismiss each recommendation as wowsery and the unacceptable face of the nanny State. Alas, none of my suggestions attracted majority support in the committee. Instead, the committee recommended—wait for it—a Cabinet subcommittee; a community education program, especially in schools; a ceiling on poker machines that is above the current number; the monitoring and evaluation of counselling services; and, of course, more and more research. It is no wonder that no-one takes any notice of the Social Development Committee. Any journalist who describes us as powerful or influential must be using irony.

However, there is one recommendation in the report that I do support, that is, a ban on interactive home gambling. I do not believe the State of South Australia should be seduced by possible tax revenue into facilitating and legitimising gambling on the Internet. It may be impossible to stop, but it has such potential for harm that we should turn our faces from it and deprive it of the imprimatur of the State by simply declaring that any gaming debt incurred on the Internet is not enforceable in any court in South Australia. Senator Chapman, a Liberal Senator from South Australia, has said all that needs to be said about the greedy and cowardly

proposal to regulate Internet gambling—a proposal now embraced by our State Government, according to the Governor's speech. The United States has passed Senator John Kyl's Internet Gambling Prohibition Act. We should cooperate with that law and emulate its provisions.

I am the only member of the committee who is so critical of the report. Nevertheless, I enjoyed working with committee veterans such as the Hon. Terry Cameron, the Hon. Sandra Kanck and the member for Hartley. In fact, I am the only Labor member left on the Social Development Committee. The tensions of the prostitution inquiry were not continued. The Hon. Caroline Schaefer's accession to the Presiding Officer's job was a welcome relief, and she was a good chairman and manager. I found her to be fair and trustworthy. It was also good to work with the member for Fisher, who was new to the committee. I am grateful to him, because he was the only member of the committee who supported some of my ideas. He is one of those MPs who voted to introduce poker machines in 1992 but now believes we ought to take stock.

Committee secretary Ben Calcraft and researcher Mary Covernton were helpful and good company. I was disappointed that my ideas did not find majority support. I could have written a dissenting report, but my dissenting from the prostitution report had necessitated days of work drafting a minority report with the member for Hartley. It was time I could not afford on this occasion, given my constituency and my shadow portfolio duties. Denial of the use of the committee researcher to dissenters has always been a useful advice for obtaining consensus on select and standing committees. I cheerfully resigned myself to my usual committee task of subediting the report.

Indeed, the committee passed a resolution that my grammatical and stylistic changes were to be incorporated in the report, provided that they did not alter its substance. Members may be aware that before I entered Parliament I had worked as a subeditor with Adelaide's daily newspaper. Alas, some of my suggested editing was not accepted by the committee secretariat, and the report is the poorer for that.

Members interjecting:

Mr ATKINSON: I invite members to read some of the report and try to make sense of it. I would give some examples, but I do not want to detain the House. In conclusion, I had hoped that the committee's report would mark a pause in the State's rush to pokies and would make some modest suggestions for removing the objectionable features of poker machines, especially their invitation to addiction and obsession. Pokies are not going to be abolished in South Australia, nor are they going to be phased out. There is far too much at stake for hotels, clubs, Governments and political Parties for this to happen—even if a majority of South Australians wanted to be rid of pokies, which they do not. I discovered through my work on the committee that there was too much at stake even for a modest winding back of the pokies craze to be considered.

Mr SCALZI (Hartley): I support the noting of the committee's report and would like to put its findings in their proper context. There is no doubt that Australia and South Australia have a gambling problem. As the member for Spence has clearly outlined, the only country coming close to us in this respect is the United States, but we are 60 per cent ahead, if the member for Spence is correct with his statistics. And I would not doubt his statistics—nor his grammar: he is very good at that. I have enjoyed working

with the member for Spence on the committee, and this really puts into a proper light the problems of gambling in South Australia. Like the member for Spence, if I had been in this place when gaming machines were introduced I would have voted against them. I have been consistent in that position, and I do not support a further escalation in the number of gaming machines.

Indeed, I do not support any escalation of gambling in this State or in Australia, because there is a problem with gambling. I want that clearly on the record: I do not support further escalation of gambling nor do I support an escalation in the number of gaming machines. However, we have to be honest with ourselves and not get carried away as if gaming machines are the source of all evil. Clearly, they are not. There are problems with gaming machines—the member for Spence has outlined those related to music, lights, and so on—and the committee heard evidence on those. However, the committee's job was to look at gambling in general, and we did that. Other gambling codes also must take stock of the harm that they do to society, and I believe that the committee's report clearly indicates that. It is really a breath of fresh air, because it looks at all the gambling codes—

Members interjecting:

Mr SCALZI: It does, and it does it well. I travelled to New South Wales with my committee colleagues to look at how gaming machines operate in clubs as opposed to hotels, and to test the perception that, if clubs have gaming machines, everything is hunky-dory and all profits go back to the community. That was not the case in New South Wales, and we must be honest with ourselves.

Mr Conlon: What's your point, Joe?

Mr SCALZI: The point is that gaming machines can be a problem for some and I do not support their escalation, and nor does the committee. But they are not the source of all evil. We must look into other areas, including the operation of the Lotteries Commission. All members are aware of the problems of advertising with some of the codes. Recent advertisements for the Lotteries Commission about scratchies, saying 'and it does happen' are irresponsible, and the 'break free' ads are irresponsible. It is not just gaming machines. The Hotels Association and the Licensed Clubs Association have put down a voluntary code. They have at least done something about this matter.

We must be honest and say that jobs have been provided by hotels and, no doubt, the hotels in question were renovated in connection with the installation of gaming machines. That does not make it right, but the reality is that that is the case: jobs have been created and people have invested money, and we must be mindful of the contribution that this industry is making to the State. But the real problem is gambling. The committee made certain recommendations at which we must look carefully, for example, Internet and interactive home gambling. Let us do something about this matter before the horse has bolted. We must look at those areas we can influence. We have gaming machines, and we have to deal with them in the best way possible, not disadvantaging individuals who have invested but at the same time giving a clear signal, as the Premier clearly outlined, that enough is enough.

There is a clear signal that we should not keep on increasing the number of gaming machines, as has been the case, while at the same time giving recognition to the Hotels Association and the Licensed Clubs Association that their voluntary codes have been responsible. They were frank in giving evidence, and they agreed with the 40 limit. Some

clubs in New South Wales operate more than 1 000 gaming machines. There is a perception that clubs do everything for the community, but they are a multimillion dollar business. No doubt there are problems involving gaming machines. Problem gamblers make up 1 or 2 per cent of the population, but there are problems with gambling on racing, with Keno, the TAB, cards and all those areas.

Mr Atkinson: But nowhere near the problem of gaming machines.

Mr SCALZI: That is what we have under the microscope now. Gaming machines have been in operation for the past three years, and that might be the case. There is no doubt that they have contributed to some of the problems of gamblers and their families, and I feel for those people. That is why I support the recommendation that we must have training, counselling and research; that we have to look very carefully at how we are going to deal with this issue in the future, especially with interactive gambling. It would really concern me if a home became a virtual casino, and we have to do something about that.

I support the recommendations. I commend those in the industry who have been responsible. I do not support any further escalation in gaming machines or in any other forms of gambling. If we were to concentrate on just one aspect of gambling, it would be a little like someone who had a problem with drinking saying they would get rid of their alcohol problem by giving up brandy but still drinking vodka. That is what you are saying if you just pick out one particular area. The reality is that we have to look at gambling in general. Yesterday I placed a few dollars on the Melbourne Cup. I enjoyed it, as I was fortunate enough to back the winner, with the help of the member for Spence, and I thank him for that. So, there we had cooperation between Opposition and Government members. He gives you tips!

It is true when it is said that Australians will bet on two flies crawling up a wall, and we do spend more per head of population than most countries, but we must look at this matter in its proper context, continue with research, and make sure that we educate our young on the problems associated with gambling. I agree that Governments should not be addicted to the revenue from gambling, and that is not only a problem in South Australia but Australia-wide and Governments throughout the world. Too much reliance is placed on gambling revenue.

The ACTING SPEAKER (Mr Hamilton-Smith): Order! The honourable member's time has expired.

Mr WRIGHT (Lee): I would like to make a few comments about this report. In particular, I will refer to some of the information contained in the section on the racing industry, but I will also touch upon poker machines. Having said that, I believe it is fair to say that with gambling of any form there will be some social impacts, but I concur with what the member for Spence has said: we do need to look at poker machines and the racing industry in different lights. They are quite obviously different forms of gambling. They are starkly different, and we should not just lump them all in as one.

With respect to the racing industry, I would make the point that has been picked up in this report which highlights the fact that for the past two decades the racing industry has been in decline in this State. There is no doubt about that. No-one of any political persuasion could argue any other way. When you look in particular at the number of people who go to the course and the turnover with regard to bookmakers, the

tote and also the TAB (except in more recent times), there has been a decline in this State. To simply throw everything into the one melting pot is not a sensible argument and does not do any of us any good whatsoever.

If we analyse the form of gambling involving poker machines and gambling on the racetrack, we see that they are totally different. Having said that, I will not say that we should ban poker machines, because I do not think that is a sensible solution either. Perhaps it is a sensible solution to put in some appropriate control mechanisms with regard to poker machines. Certainly there is little doubt that there are negative social impacts with respect to gambling, but we should not blow those out of proportion. The impacts from poker machines are far worse than those involving the racetrack.

I disagree with recommendation 1.5 in this report, which provides that all gambling codes should contribute to the Gamblers Rehabilitation Fund. I think the racing industry is being hard done by there because, quite clearly, right now we are going through a period where the racing industry is doing it tough. We need to identify that. We need to come up with a range of policies to address that matter and try to ensure that the racing industry maintains the critical role it plays in this State.

For example, in the early recommendations of this report, it identifies that racing provides more than 11 000 people with full-time or part-time work and that the South Australian Totalizator Agency Board employs 580 people full time, and the equivalent of 750 if you take into account the part-time factor. Racing plays a very important role in this community and State, and we do not want to bite the hand that feeds it.

I want to pick up a couple of points identified on page 53 of the report referring to the racing industry, where it states that less than 2 per cent of the population were regular or frequent racegoers, and that less than 11 per cent of the population are described as medium racegoers, etc. All of those points might be correct, but two of the major problems associated with the racing industry are that no longer do young people go to the racecourse, and the facilities are not good enough.

If we are to get people onto the course, if that is what we want—it is what I want—what we will have to do is make sure that the facilities on the course are just as good as they are for people who go to the TAB, hotel or various other outlets where they can be involved with gambling. I think recommendation 1.5 is harsh on the racing industry and I do not agree with it.

In its recommendation on page 55 of the report, RIDA has recognised that one of the critical areas we have to look at is the rationalisation of racecourses, and RIDA is expected to submit a report to the Minister in September 1998. I am not sure if the Minister has that at this stage, but I would be interested to know RIDA's views—this relatively new body that has been established with the role of looking after the racing industry on behalf of the Government. One issue that is very central to the future of the racing industry is how we will grapple with the over-supply of racecourses that we have throughout South Australia, and whether they can all survive in our current climate. On page 57 of the report, with reference to John McBain representing the Bookmakers League, it states:

In discussing the issue of telephone betting, Mr McBain noted that, since it was introduced on 8 May 1993, bookmakers had been disadvantaged with the TAB. For example, bookmakers were restricted to accepting minimum bets of \$250 on a metropolitan thoroughbred race meeting, while the TAB was not subject to such

a restriction. Although the minimum bet has since been reduced to \$200 for a metropolitan meeting and a \$100 minimum bet at other courses, this check on bookmakers had resulted in limiting telephone betting to professional punters predominantly and the reduction in the number of bookmakers offering telephone betting. . .

And he goes on. This is perhaps one other area we have to address, looking at this issue in respect of the ongoing success of bookmakers. For racing to be successful, it is important that we still have bookmakers on course operating in conjunction with the tote. This is one of the colourful areas which has made Australian racing so successful. It is important that the tote and the bookmakers operate successfully alongside each other. The TAB plays a critical role off course, and we are aware that that really is a large source of the money channelled back into the industry.

In regard to this particular report, the racing industry has been hard done by: we should recognise that. We should also recognise that there is a clear and distinct difference in the form of gambling and gambling addiction that takes place with regard to poker machines compared to that involving the racecourse. What is very important for the ongoing success of the racing industry is that all the codes are successful—thoroughbred racing, harness and the greyhounds.

We have to make sure the facilities, the spectators and gamblers on course are of a better standard so we can attract people to the course. We want to attract young people back to the course if the racing industry is to have ongoing success in the future. I have spoken mainly about the racing industry quite deliberately. Other members have spoken in detail about poker machines, and there is no need for me to go over that issue in great detail except to say that obviously we have an emotive issue with regard to poker machines. We have an issue which in some ways brings different opinions about the control and role of poker machines.

In the summary and recommendations credit is given to the Australian Hotels Association and the Licensed Clubs Association with regard to undertaking the voluntary code of practice. The member for Spence acknowledged the contribution made with respect to hotels and the facilities they have been able to generate, which is important for the community. It is also important that funds are made available for the addiction side of it, but let us address the main addiction problem. The major problem—not the only problem—with regard to gambling addiction is on the side where we have the greatest social impact currently working its way throughout our community. We have to find checks and balances in the system.

Mr LEWIS secured the adjournment of the debate.

PUBLIC WORKS COMMITTEE: AUSTRALIAN ABORIGINAL CULTURE GALLERY

Mr LEWIS (Hammond): I move:

That the eightieth report of the committee on the Australian Aboriginal Culture Gallery be noted.

The South Australian Museum houses an Aboriginal collection of world significance. It is the oldest, the largest and the most representative collection in the world. It is the best, with material sourced from all regions of Australia, particularly the remote regions of northern and central Australia. However, the facilities available for the display of this collection at the museum are inadequate, and currently less than 2 per cent of the collection is exhibited for public viewing. Therefore, Arts SA has proposed to construct an

Australian Aboriginal Culture Gallery at the South Australian Museum at an estimated cost of \$13.5 million.

The committee notes that the development of the culture gallery is part of a staged redevelopment of the South Australian Museum, in line with the North Terrace cultural precinct study and the Adelaide 21 capital city and Torrens domain strategies. The project is exhibition driven with approximately 55 per cent of the estimated project cost to be spent on exhibition space, with the remaining 45 per cent on the necessary basic building alterations and improvements, including heritage facade works. Once those works are complete the total area of the Australian Aboriginal Culture Gallery will be 1 390 square metres.

WT Partnership has completed an extensive financial analysis of the project, which identified a net present value of minus \$2.575 million, assuming a 7 per cent discount rate for the preferred option. The committee noted, though, that the assessment did not include the revenue which would accrue to the South Australian economy as a result of the project going ahead but was rather narrowly focused on the revenue stream to Arts SA, and the museum in particular. I believe that, had the committee insisted upon an assessment being made of the additional cash revenue that would come into South Australia as a consequence of the increased number of visitors that would come here from interstate, or from overseas, or stay here longer for the express reason of wanting to see the exhibition, and stay then for a day or more longer, the net present value would have been positive.

In summary, the proposed project will consist of the following: renovation of the ground and first floors of the east wing of the museum; provision of a new entrance structure south of the existing whale gallery; and relocation of the museum shop and cafe to the western side of that new entrance. This entrance will provide direct visitor access for the new Australian Aboriginal Cultures Gallery. The committee inspected the site on 19 August last. As we walked through the museum, committee members got an insight into exactly how the Aboriginal Cultures Gallery will combine and interact with the rest of the museum.

We were able to see first hand the restricted amount of space currently available to museum exhibits of Aboriginal origin, and we noted the small amount of material that was currently on display. Members went to the basement of the museum and saw the large volume of Aboriginal material that is currently stored there. The committee was advised that the lack of exhibition space means that most of this material cannot and would otherwise never be seen by the public. Repeatedly during the site inspection the attention of members was drawn to areas in which the museum building does not meet current building codes and regulations.

This related particularly to fire services, emergency egress (getting out of the place in a hurry if something goes wrong) and earthquake resistance. The committee was told that there is no certificate of title for this land and that ownership resides with the Crown. That is a curio of itself but a serious one when one considers the implications of it with respect to native title. The committee sought the Crown Solicitor's advice and was told the following:

Being Crown land, the land has not been granted in *fee simple* pursuant to the Crown Lands Act and whilst these sites remain dedicated for the respective public purpose of Museum, Art Gallery and State Library the only freehold (Real Property Act) title which can issue is a 'trust grant' issued by the Governor to the entity having the care, control and management of the site, such certificate of title being limited for the uses for which the land was dedicated.

The Crown Solicitor further said:

In my opinion, the combination of the dedication of the land for the purposes of a museum, the construction of the museum building and the continuous use of land for museum purposes is inconsistent with the continued existence, enjoyment or exercise of native title in the land and any native title interests which may have existed in the land have been extinguished.

I wonder, if one reads Mabo one and two. Given the extent of the Kurna people's collections in the museum in particular and other Aboriginal artefacts in general, I am not sure that it could be argued in a court in a way sustainable that they had been indeed excluded from the enjoyment or exercise of their rights and interests and that they might well argue that native title still exists. The committee acknowledges that the South Australian Museum's Aboriginal collection has enormous potential for South Australia because of the leverage opportunity it gives the museum to display the world's largest and most nationally representative and best examples of known Aboriginal cultural materials.

The collection has excellent time depth, and its documentation in terms of photographic, audio, film and other media make it quite significant. Doubtless it will attract many overseas and interstate visitors with cultural interests in South Australia. The committee was told that, of the 600 000 international tourists who visit Australian museums each year, approximately 70 per cent (approximately 420 000) visit Australia especially to see Aboriginal art and cultural material.

Currently, South Australia attracts only 11 per cent of all overseas tourists to Australia and, given that overseas visitors spend considerably more dollars per capita than other visitors to the State, the committee unanimously agrees that the Aboriginal Cultures Gallery has enormous potential to contribute significantly to the State's economy by attracting a far greater proportion than the 11 per cent of overseas visitors who currently come here.

The committee notes that Arts SA has not calculated the multiplier effect of tourist expenditure on the State's economy, as I noted earlier. Members of the committee are therefore anxious to point out that a quantified assessment of that benefit would have been welcomed. Indeed, in future it will be pointed out to proponents that it will be necessary for them to do that. Let me return to the substantive consideration of the material. At least as importantly, if not more so, it should be noted that this project provides an opportunity to deepen the dialogue of consultation with Aboriginal people and engender their culture to public understanding.

The committee notes that the location of the new entrance and the museum shop and cafe have varied over the life of the project's development. Although the committee is satisfied with the format of the final plans as they have been put to us, we are aware that the proposed new entrance will have an impact on the location of the existing eastern whale skeleton currently on display in the whale gallery. Emphatically the committee does not want this exhibition to be removed from public display and therefore recommends strongly to Arts SA that the whole whale skeleton be raised, that is, elevated, so as to allow visitor access beneath it.

The Public Works Committee also notes that the naming rights of the Australian Aboriginal Cultures Gallery have not been secured. This is very disturbing. Members consider that, as this is a nationally recognised collection of international significance, it is important and, in my personal opinion, vital to protect its integrity by ensuring that competitors, either from within or outside South Australia, do not attempt to use

and cannot then use similar names which may undermine the museum's image and significance in providing this collection and exhibition.

Accordingly, the committee strongly recommends that the Minister register business and/or trade names of sufficient number as will preclude anyone from being able to claim that they have the Australian Aboriginal Gallery, or the National Aboriginal Gallery, or the Australian Cultural Centre or the National Aboriginal Cultural Centre, or the like. The committee points out that the National Wine Centre has prudently undertaken this process already.

The committee would like to acknowledge and applaud the generous financial support of all sponsors and donors to the Australian Aboriginal Cultures Gallery. We are pleased to inform the House that, to date, 45 individuals or organisations have promised donations of \$1.486 million over the next four years, with almost \$27 500 of that amount having already been received. The Public Works Committee endorses the proposal to construct the Australian Aboriginal Cultures Gallery at the South Australian Museum and recommends the proposed public work.

Ms THOMPSON secured the adjournment of the debate.

[Sitting suspended from 6 to 7.30 p.m.]

AUSTRALIAN FORMULA ONE GRAND PRIX (SOUTH AUSTRALIAN MOTOR SPORT) AMENDMENT BILL

The Hon. M.R. BUCKBY (Minister for Education, Children's Services and Training) obtained leave and introduced a Bill for an Act to amend the Australian Formula One Grand Prix Act 1984. Read a first time.

The Hon. M.R. BUCKBY: 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 proposes to amend the *Australian Formula One Grand Prix Act 1984* to more accurately reflect the function of the Act in the absence of a Grand Prix. The name of the proposed amended Act will be the *South Australian Motor Sport Act*.

With the staging of the Sensational Adelaide 500 Group A Endurance Race it is proposed that this amended Act be utilised as the statutory authority responsible for staging the event.

The Australian Formula One Grand Prix Act was passed in 1984 to provide the legal basis for the establishment of the Australian Formula One Grand Prix Board for the purpose of staging Formula One Grands Prix in Adelaide.

The Australian Formula One Grand Prix Board has effectively been dormant since the conclusion of the 1995 event.

However, since that time an interim Board has had responsibility for the administration of the Australian Formula One Grand Prix Act, because the Board has continued to hold assets and incur certain liabilities resulting from the finalisation of Grand Prix matters.

On 1 September, 1998, the Government announced the conclusion of successful negotiations with the Australian Vee Eight Super Car Company Ltd (AVESCO) for the staging of 'Sensational Adelaide 500', a Supercar Endurance Race for a period of five years with an option for a further five years.

The subsequent contract with AVESCO was taken out in the name of the Australian Formula One Grand Prix Board as the Board was considered the most appropriate body to manage the event.

Sensational Adelaide 500 provides the Government with a unique opportunity to recreate a high profile carnival in Adelaide, featuring a 500 kilometre V8 Supercar Endurance Race.

This event is consistent with the Government's objective of attracting high profile events to South Australia that will provide

Adelaide and South Australia in general with significant promotional exposure.

The staging of the event will return significant economic benefits to the State.

As the Australian Formula One Grand Prix Act provides the most efficient legal basis for staging Sensational Adelaide 500 the Act requires some modification to remove its connection with Formula One Motor Racing Events.

However the modifications would not prevent the Board from staging Formula One Racing Events in the future.

This Bill seeks to remove all references to Grand Prix and Formula One within the Act and to retain the necessary special powers of the Act, which are necessary for the staging of a successful motor sport event on an Adelaide street circuit.

The amendments in this Bill seek to change the Australian Formula One Grand Prix Act into the South Australian Motor Sport Act. The purpose of such an amendment is to create the South Australian Motor Sport Board which will be empowered to stage motor sport events in South Australia.

The Australian Formula One Grand Prix Board is the contracting party for the contract with AVESCO for the staging of the Sensational Adelaide 500 for the five year period from 1999 to 2003, with an option for a further five year period. This is the motor sport event that will be staged by the South Australian Motor Sport Board following the amendment of the Act.

The Bill will also amend the financial year of the Board to conclude on 30 June in any one year. Previously the Australian Formula One Grand Prix Board operated on a calendar year basis from January to December, however such a financial year is not appropriate for a major event to be staged in April.

As a result of this amendment the current financial period of the South Australian Motor Sport Board will be eighteen months to 30 June, 1999.

Under this Bill the method of establishment of the declared area and declared period under section 20 of the Act will not change. This mechanism enables the Minister to declare an area consisting of public road or parklands or both, in Adelaide, on the recommendation of the Board, in respect of a motor sport event, by notice published in the *Gazette*.

The Minister may also declare a period, not exceeding five days, in Adelaide, to be a declared period under this Act.

The Bill provides that the Board may, if it so determines, conduct its operations under a name not being the South Australian Motor Sport Board, for example 'Adelaide 500 Board' or 'Sensational Adelaide 500 Board' or any other name prescribed by regulation.

The Bill provides that the following official titles be declared—Adelaide 500, Sensational Adelaide 500, Adelaide Alive, Classic Adelaide, Race to the Eagle or any other name declared by the Board by notice in the *Gazette*.

The opportunity has also been taken to attend to another matter concerning the Adelaide Entertainment Centre and the Grand Prix Board. The Australian Formula One Grand Prix Board managed the Adelaide Entertainment Centre, as an operating division of the Board, pursuant to a contract with the Premier for the period from 1991 through to 1996. During this period certain contracts have been entered into in the name of the Australian Formula One Grand Prix Board on behalf of the Adelaide Entertainment Centre.

Consequently the Crown Solicitor recommends that the Act be amended so that by instrument made under the Act, the Minister may transfer assets, rights or liabilities of the Australian Formula One Grand Prix Board to another agency or instrumentality of the Crown.

Amendments to this Act will facilitate the necessary transfer of certain assets and liabilities relating to the Adelaide Entertainment Centre from the Australian Formula One Grand Prix Board to the proposed Adelaide Entertainment Corporation. This Corporation will be established as Ministerial Subsidiary, and as a discrete legal entity it will have the sole responsibility for the Adelaide Entertainment Centre's management and operation.

The Bill contains a provision which will exempt activities of the Board, to be renamed the South Australian Motor Sport Board, from the requirement to implement the principles of competitive neutrality. Competitive neutrality, and the review of restrictions on competition contained in legislation, are obligations the Government has accepted as part of the National Competition Policy. However, the principles of competitive neutrality do not need to be implemented where it would be inappropriate to do so. Similarly, a restriction upon competition is justified if the public benefits outweigh the anticompetitive detriments.

Based upon experience with the Grand Prix, it is expected there will be significant economic spin-offs for businesses in the State and consequent growth in employment. There will be infrastructure development associated with the staging of the event. The Board's activities will retain and build upon the international recognition of the Adelaide street circuit and the City as a location for major motor racing carnivals.

These same economic benefit objectives form a significant public benefit for the purposes of legislation review that outweighs any anticompetitive detriment that might be considered to arise as a result of the inclusion in the Bill of the provision that exempts the Board and its activities from the competitive neutrality review mechanism under the *Government Business Enterprises (Competition) Act*.

I commend this Bill to the House.

Explanation of Clauses

General comments

The Australian Formula One Grand Prix is no longer run in Adelaide. However, it is proposed that the body corporate currently in existence under the name of the *Australian Formula One Grand Prix Board* will continue in existence but under a different name (the *South Australian Motor Sport Board*) and that the Board will be charged with the function of running other motor sport events in South Australia. Thus, many of the proposed amendments to the *Australian Formula One Grand Prix Act 1984* (the principal Act) are consequential on this change.

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of long title

The long title is amended so that, instead of the purpose of the principal Act being to establish the *Australian Formula One Grand Prix Board*, the purpose of the Act will be to make provision in relation to a corporation to be known as the *South Australian Motor Sport Board*.

Clause 4: Substitution of s. 1

1. Short title

As a consequence of the change to the long title of the principal Act, the *South Australian Motor Sport Act 1984* is proposed as the short title for the principal Act.

Clause 5: Amendment of s. 3—Interpretation

This clause contains amendments to definitions consequential on the deletion of references to, and any connection with, the Australian Formula One Grand Prix. In particular—

a declared area is defined to mean an area declared by the Minister by notice under Part 3 to be a declared area under the Act;

a declared period is defined to mean a period declared by the Minister by notice under Part 3 to be a declared period under the Act.

Clause 6: Amendment of s. 4—Continuation of Board

The Australian Formula One Grand Prix Board continues in existence as the *South Australian Motor Sport Board* (the Board).

Clause 7: Amendment of s. 10—Functions and powers of the Board

This clause contains amendments necessary to enable the Board to carry out functions of negotiating and entering into agreements under which motor sport events may be held in the State, for promoting such events and to do all things necessary for or in connection with the conduct, and financial and commercial management, of such events.

Clause 8: Insertion of s. 10AA

10AA. Non-application of Government Business Enterprises (Competition) Act 1996

New section 10AA provides that the *Government Business Enterprises (Competition) Act 1996* does not apply to the Board or to any of its activities.

Clause 9: Amendment of s. 11—Board may control and charge fee for filming, etc., from outside a circuit

This is consequential on changes associated with references to motor sport events.

Clause 10: Amendment of s. 19—Reports

The Board currently must report on its operations to the Minister before the end of April in each year. It is proposed that the Board will coincide its operational year with the financial year and so, as a consequence, the Board will now report to the Minister on or before 30 September in each year on its work and operations for the previous financial year.

Clause 11: Substitution of heading

The amendment is consequential.

Clause 12: Amendment of s. 20—Minister may declare area and period

New subsection (1) provides that the Minister may, on the recommendation of the Board, in respect of a motor sport event promoted by the Board, declare—

- a specified area (consisting of public road or parkland, or both) in Adelaide to be a declared area (*see s. 3*) for the purposes of the event; and
- a specified period (not exceeding 5 days) to be a declared period (*see s. 3*) for the purposes of the event.

New Subsection (3) continues the legislative policy that there may only be one such declaration under the Act per year.

Clause 13: Amendment of s. 21—Board to have care, control, etc., of declared area for relevant declared period

Clause 14: Amendment of s. 22—Board to have power to enter and carry out works, etc., on declared area

Clause 15: Amendment of s. 23—Board to consult and take into account representations of persons affected by operations

Clause 16: Amendment of s. 24—Certain land taken to be lawfully occupied by Board

Clause 17: Amendment of s. 25—Non-application of certain laws

Clause 18: Amendment of s. 27—Power to remove vehicles left unattended within declared area

The amendments contained in clauses 13 to 18 are consequential on the new definitions of declared area and declared period.

Clause 19: Substitution of s. 28

The current section 28 is obsolete and so it is proposed to repeal that section.

28. Board may conduct activities under other name

New section 28 provides that the Board may conduct its activities or any part of its activities not under the name the *South Australian Motor Sport Board* but under—

- the name 'Adelaide 500 Board'; or
- the name 'Sensational Adelaide 500 Board'; or
- any name prescribed by regulation.

28AA. Declaration of official titles

New section 28AA provides that the following are declared to be official titles (*see s. 3*) for the purposes of the Act:

- *Adelaide 500*, *Sensational Adelaide 500*, *Classic Adelaide* and *Race to the Eagle* where the expressions can reasonably be taken to refer to a motor sport event;
- *Adelaide Alive* where the expression can reasonably be taken to refer to an event or activity promoted by the Board;
- with the consent of the Minister—any other name, title or expression declared by the Board by notice in the *Gazette* in respect of a particular event or activity promoted by the Board.

Clause 20: Amendment of s. 28A—Special proprietary interests
New subsection (1) provides that the Board has a proprietary interest in its name, any name adopted by the Board pursuant to a determination under new section 28 (*see above*) and all official insignia (*see s. 3*). Other amendments proposed to current section 28A are consequential.

Clause 21: Amendment of s. 28B—Seizure and forfeiture of goods
The proposed amendments remove any reference to 'grand prix'.

Clause 22: Insertion of s. 29

It is expedient to give to the Minister the ability to transfer an asset, right or liability of the Board to another agent or instrumentality of the Crown.

Clause 23: Amendment of s. 30—Regulations

These amendments are consequential on the new definitions of declared area and declared period (*see s. 3*).

Clause 24: Repeal of schedule

The schedule of the principal Act is to be repealed as the logo set out therein was in respect of the Australian Formula One Grand Prix and is, therefore, obsolete.

Clause 25: Transitional provision

The transitional provision is required for the changeover in respect of the Board's operational year from a calendar year to a financial year.

Clause 26: Statute law revision amendments

The schedule of the amending Act sets out further amendments of the principal Act that are of a statute law revision nature.

Mr FOLEY secured the adjournment of the debate.

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (MISCELLANEOUS) AMENDMENT BILL

Second reading.

The Hon. M.R. BUCKBY (Minister for Education, Children's Services and Training): 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.

Two years ago Parliament passed the National Electricity (South Australia) Act, which applies the National Electricity Law as a law of South Australia. This legislation (which will come into operation soon) implements certain regulatory arrangements for the national electricity grid which were agreed on 9 May 1996 by Ministers representing South Australia, New South Wales, Victoria, Queensland and the Australian Capital Territory. As honourable members may recall, South Australia undertook the role of lead legislator for the national electricity legislation and so is responsible for enacting the National Electricity Law, which will be applied in each of the other participating jurisdictions through application of laws legislation in each of those jurisdictions. The national electricity market is expected to commence on 15 November.

In the course of preparing for the commencement of the national electricity market it has become evident that a number of amendments are required to the National Electricity Law. The proposed amendments, which are the result of considerable consultation between the participating jurisdictions, NEMMCO and network service providers (such as ETSA Transmission, VPX and GPU), are contained in this Bill.

The most important amendments relate to the immunity to be granted to NEMMCO, network service providers and their officers and employees.

In so far as NEMMCO and its officers and employees are concerned, this immunity is an immunity from liability to pay damages or compensation to third parties for any act or omission in the performance or exercise of a function or power of NEMMCO under the National Electricity Law or the National Electricity Code. For an initial period of 12 months (or such other period as the participating jurisdictions unanimously agree) the immunity will extend to all such acts or omissions except those done or made in bad faith. On the expiry of that period, the immunity will cease to apply in respect of negligent acts or omissions. However, the maximum liability of NEMMCO and its officers and employees for negligence will be capped. This cap, which is to be prescribed by regulation, can be expressed on a 'per event' or 'per annum' basis and may vary in its application or amount depending on (among other things) the nature of the loss.

Network service providers and their officers and employees will be entitled to a similar immunity except that their immunity will only apply in relation to the performance or exercise of certain functions and powers called system operations functions and powers. These functions and powers will be prescribed by regulations which will be laid before this House shortly. Broadly speaking, these system operations functions and powers encompass functions and powers that the network service providers are required by the National Electricity Code to perform or exercise to facilitate the security of the electricity system and to assist NEMMCO in the performance of its functions. They do not extend to functions or powers performed or exercised by the network service providers in the course of their 'core' (or 'wires') businesses.

The reason for granting some degree of immunity to NEMMCO is that NEMMCO is a non-profit organisation, without a substantial capital base, which will be exposed to substantial risk in relation to the operation of the electricity system. The reason for granting some degree of immunity to network service providers in respect of their system operations functions and powers is that they are being required, under the National Electricity Code, to perform these functions and exercise these powers for a non-commercial rate of return. A possible alternative to granting these immunities is for NEMMCO and the network service providers to take out insurance for claims that may be made against them. However, the fairly novel nature of the national electricity market and the complexities in obtaining such insurance has meant that this is not likely to be possible prior to the start of the national electricity market.

It is expected that options for insurance will be fully explored over the next 12 months, during which the participating jurisdictions, NEMMCO and the network service providers will review the National Electricity Law and the National Electricity Code for the purpose of agreeing on more satisfactory arrangements relating to the liability of NEMMCO and the network service providers for performing the various market and system operations functions that are required to be performed by them under the Law and the Code. The establishment of the cap to apply to liability for negligence following the expiry of this period will also be a matter that is to be addressed by the review. While these matters are being resolved (namely, during the initial 12 month period to which I have referred), it is considered appropriate to give NEMMCO and the network service providers the benefit of the immunity for negligence that I have described. Following the expiry of this period, and assuming there to be no change to the legislation as a result of the review, this immunity for negligence will be removed and replaced by a cap on the liability of NEMMCO, the network service providers and their officers and employees for negligence.

Certain consequential amendments will be made to section 78 of the National Electricity Law so as to ensure consistency between it and the new provisions which I have described. Section 78 is an existing provision of the Law which provides a Code participant with a limited immunity from liability for any partial or total failure to supply electricity.

Section 76 of the National Electricity Law will also be amended. Section 76 empowers NEMMCO to authorise a person to take, or to require a Code participant to take, certain actions where those actions are necessary for reasons of public safety or the security of the electricity system. Typically these actions will be undertaken in an emergency situation. Accordingly, it is considered appropriate to grant an immunity to such authorised persons and Code participants from liability to pay damages or compensation as a result of these actions except where they act in bad faith.

The Bill will also amend the National Electricity Law so as to enable the National Electricity Tribunal to exercise functions and powers conferred on it under Tasmania's Electricity Supply Industry Act in relation to the review of decisions by the Tasmanian regulator and proceedings for breaches of that Act or the Tasmanian Electricity Code. Tasmania will not be an initial participant in the national electricity market. However it may be that, in the foreseeable future, it will become connected to the national grid and will therefore participate in that market. For this reason, and to avoid the need for Tasmania to set up its own Tribunal, it has been agreed to extend the jurisdiction of the National Electricity Tribunal in the manner which I have described. In so far as proceedings under Tasmania's Electricity Supply Industry Act are concerned, the Tribunal will generally be required to include, as one of its members, a person who has been appointed to the Tribunal on the recommendation of both the Minister responsible for that Act and a majority of the Ministers of the participating jurisdictions. The Tasmanian Regulator will be required to fund the Tribunal in the performance of its functions under this extended jurisdiction.

The remaining amendments to the National Electricity Law are of a more technical nature and I will only mention three of them.

First, section 43 will be amended to enable the Minister of a participating jurisdiction to apply to the National Electricity Tribunal for the review of a reviewable decision.

Secondly, section 60 will be amended to provide that there need only be a Registrar or Deputy Registrar of the National Electricity Tribunal in each participating jurisdiction rather than a Registrar and a Deputy Registrar in each jurisdiction. This will reduce NECA's costs of administration.

Finally, sections 71, 74 and 75, which deal with the issue of search warrants in relation to suspected breaches of the National Electricity Code, will be amended by reducing the term of such warrants and by removing some of the powers that would otherwise have been exercisable by a person acting under such a warrant. These amendments are intended to make the provisions relating to search warrants more consistent with those applying to search warrants in other participating jurisdictions.

I commend the Bill to the House.

Explanation of Clauses

PART 1 PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

This clause provides for commencement of Part 3 (relating to functions of the Tribunal under the Tasmanian Act) on a day to be fixed by proclamation made on the unanimous recommendation of

the national electricity scheme Ministers. As with the principal Act, the operation of section 7(5) of the *Acts Interpretation Act* (providing for automatic commencement after 2 years) is excluded. Amendments need to be made to the Tasmanian Act before the provisions are brought into operation.

The remainder of the measure is to commence on assent. Commencement of the provisions of the principal Act amended by this measure will continue to be governed by proclamation made under the principal Act.

PART 2 GENERAL AMENDMENTS

Clause 3: Amendment of s. 10 of Sched.—Proceedings in respect of Code

This amendment makes it clear that Code participants may rely in proceedings on alleged contraventions of the Code by NECA.

Clause 4: Amendment of s. 25 of Sched.—Arrangement of business

This is a technical correction to achieve consistency of expression in the section.

Clause 5: Amendment of s. 43 of Sched.—Reviewable decisions

These amendments extend the right to apply to the Tribunal for review of a reviewable decision to the Minister. They also fix the period within which an application for review must be made—within 28 days of the giving of individual notice of the reviewable decision or of publication of notice of the reviewable decision in accordance with the regulations.

Clause 6: Amendment of s. 44 of Sched.—Tribunal may make certain orders

Section 44 of the Schedule is amended to expressly contemplate Tribunal orders for physical disconnection of a Code participant's market loads as contemplated by the Code and to allow further types of orders to be expressly contemplated by the regulations.

Clause 7: Amendment of s. 60 of Sched.—Staff of Tribunal

The amendment enables there to be a Registrar or Deputy Registrar (or both) in each of the jurisdictions participating in the national electricity scheme.

Clause 8: Amendment of s. 71 of Sched.—Search warrant

These amendments reduce the maximum period for which a search warrant issued under the section may have effect from 28 days to 7 days.

Clause 9: Amendment of s. 74 of Sched.—Powers under right of entry

The amendment removes paragraph (e) which provides that a search warrant includes the power to require the occupier or any person in the place to give to the person reasonable assistance in relation to the exercise of the person's powers under the section.

Clause 10: Repeal of s. 75 of Sched.

The section proposed to be repealed allows a person executing a warrant to seize property connected with breaches of the Code not mentioned in the warrant in certain circumstances.

Clause 11: Amendment of s. 76 of Sched.—Safety and security of electricity system

The amendments provide immunity from civil monetary liability for authorised persons and Code participants acting in accordance with the section. The immunity does not extend to acts or omissions done or made in bad faith.

Clause 12: Substitution of s. 78 of Sched.

The substituted provisions provide certain immunities from civil monetary liability.

77A. Immunity of NEMMCO and network service providers

The section provides for different levels of immunity from civil monetary liability before and after a prescribed day (1 year after commencement of the section or such other day as is fixed by regulation). The immunity is provided to—

- NEMMCO and its officers and employees in respect of the functions and powers of NEMMCO under the Law and the Code; and
- network service providers (registered under the Code as such) and their officers and employees in respect of system operations functions (an expression to be defined by regulation).

Before the prescribed day the immunity applies unless the relevant act or omission is done or made in bad faith. After the prescribed day the immunity applies unless the relevant act or omission is done or made in bad faith or through negligence.

In addition, civil monetary liability for an act or omission done or made through negligence will be subject to a cap fixed by regulation.

The immunity provided by the section is subject to variation by agreement with NEMMCO or a network service provider.

78. *Immunity in relation to failure to supply electricity*
The section provides for immunity from civil monetary liability for a Code participant and its officers and employees for any partial or total failure to supply electricity unless the failure is due to an act or omission done or made in bad faith or through negligence.

The immunity provided by the section is subject to variation by agreement with the Code participant.

The section makes it clear that it only applies where section 77A does not apply.

PART 3 AMENDMENTS RELATING TO FUNCTIONS OF TRIBUNAL UNDER TASMANIAN ACT

Clause 13: Insertion of Div. 4 of Part 5 of Sched.—DIVISION 4—FUNCTIONS OF TRIBUNAL UNDER TASMANIAN ACT

This clause inserts a new Division providing for the National Electricity Tribunal to undertake functions under the *Tasmanian Electricity Supply Industry Act 1995*. It contains provisions similar to those in the national scheme about the composition and proceedings of the Tribunal. It also provides for the appointment of an additional member to hear Tasmanian proceedings. Other matters necessary for the functioning of the Tribunal in Tasmania will appear in the Tasmanian Act.

64A. Definitions

This section contains definitions for the purposes of the Division.

64B. Functions under Tasmanian Act and exclusion of Divisions 1, 2 and 3

This section contemplates the Tasmanian Act conferring functions and powers on the National Electricity Tribunal (established under Part 5 of the principal Act) enabling it to review certain decisions made under the Tasmanian Act and to hear and determine proceedings relating to breaches under the Tasmanian Act.

The section also provides that the Division applies in relation to those functions and powers to the exclusion of Divisions 1 to 3 of Part 5 of the Schedule of the principal Act.

64C. Composition

In relation to Tasmanian proceedings the Tribunal is to consist of the chairperson, deputy chairpersons and other members appointed under the national scheme and a further Tasmanian member.

64D. Appointment of further member

This section provides for the appointment of the Tasmanian member by the Governor of South Australia on the recommendation of both a majority of the national scheme Ministers and the Tasmanian Minister. Like the national scheme members, the Tasmanian member is to be appointed on a part-time basis.

64E. Terms and conditions of appointment of Tasmanian member

The appointment is to be for a maximum of 5 years at a time and the terms and conditions of appointment are to be determined by a majority of the national scheme Ministers and the Tasmanian Minister.

64F. Resignation and termination of Tasmanian member

This section provides for the resignation of the Tasmanian member and provides for termination of appointment on certain grounds by a majority decision of the national scheme Ministers and the Tasmanian Minister.

64G. Arrangement of business

As in the national scheme, the chairperson may give directions as to the arrangement of the business of the Tribunal.

64H. Constitution of Tribunal

For the purposes of Tasmanian proceedings, the Tribunal is to be constituted of 2 or 3 members of whom at least one is the chairperson or a deputy chairperson and, whenever practicable, one is the Tasmanian member.

64I. Member ceasing to be available

This section contains administrative provisions facilitating the continuance of proceedings where a member ceases to be able to hear the proceedings.

64J. Sitting places

The Tribunal is to sit in Tasmania to hear Tasmanian proceedings.

64K. Management of administrative affairs of Tribunal

The chairperson is given the responsibility of managing the administrative affairs of the Tribunal in relation to Tasmanian proceedings.

64L. Staff of Tribunal

This section requires the Tasmanian Act to provide for the appointment of a Registrar or Deputy Registrar (or both) of the Tribunal in Tasmania.

64M. Annual budget and funds

The chairperson is to submit to the Tasmanian Regulator a budget for each financial year. Two months are set aside for discussion and agreement about any changes to the budget.

The Tribunal may only authorise expenditure for the performance of its functions under the Tasmanian Act in accordance with the budget or with the agreement of the Tasmanian Regulator.

The Tribunal is not required to perform functions for which funds have not been provided.

64N. Annual report

The annual report of the Tribunal is required to include a report on the operations of the Tribunal in relation to Tasmanian proceedings.

64O. Delegation

As in the national scheme, the chairperson of the Tribunal is authorised to delegate powers under the Division to a deputy chairperson or member of the Tribunal.

Clause 14: Amendment of s. 66 of Sched.—Civil penalties fund

This clause contains consequential amendments to section 66 to ensure that the civil penalties fund cannot be used for administrative costs related to Tasmanian proceedings.

Mr FOLEY (Hart): I indicate that the Opposition will be supporting not only this Bill but also its speedy passage through this Chamber and, indeed, through this Parliament. I say from the outset that the Opposition is not happy with the outcomes of the Bill: it is not particularly supportive or enthusiastic about what the Bill intends to do. There has been much debate, and I will elaborate on that shortly to ensure that the views of my colleagues are represented properly—and each of them can speak for themselves. The national electricity market legislation is a contentious piece of legislation, but the Opposition has been at the forefront of supporting, with this Government, its implementation over the past three or four years.

The Government and the then Minister for Infrastructure (the now Premier, John Olsen) approached the Opposition with a view to South Australia's being the lead State legislator for national electricity reform. We agreed to do that for a couple of reasons. From memory, one reason was that in the cycle of Parliaments we were the first available cab off the rank, so to speak; therefore, the legislation could be put through this Parliament before other Parliaments. As part of the deal for our being lead State legislator, we were promised—and with a bit of dithering and a bit of toing-and-froing we eventually got—the headquarters of NECA. In doing that, this Opposition took a responsible position on what it believed to be an appropriate piece of micro-economic reform in this country. This was achieved not without some pain, some angst and some concerns on our side of politics, but the majority view in our Party at the end of the day was that this was something we should be doing.

When the Government approached the Opposition about a week or so ago, it indicated to us that the national electricity management company was due to start in a matter of days—but again it has been put back—and that a late decision had been taken by the board of NEMMCO that it required immunity for up to 12 months from prosecution for negligence, any systems failure or any significant breakdown of the national electricity market that could be attributed to actions, or lack of actions, of NEMMCO, and the only category of damages that would be accepted would be those done in bad faith. I am told by my legal advisers and

colleagues—and friends, I might add—that bad faith is about as high as it gets on the high bar of difficulty in terms of some degree of mistake for which it could be sued.

Apparently the reason for this is that there is some difficulty in obtaining insurance coverage given that NEMMCO is an unknown body: it has not been operating, it has no track record and some of the risks (or whatever) are not known as yet. It would have been very easy for the Opposition, when the Government approached it, to oppose it. If you listened to the Premier of this State and his Ministers *ad nauseam*, and some elements of the business community and media, you would think that all the Opposition does is simply take an immediate obstructionist position to every piece of legislation that comes before this Parliament for base political purposes. Well, we did not and we do not.

If people want to know a little history of electricity reform in this State, they should recognise that we supported the Government as far back as the corporatisation of ETSA. We agreed with the Government in relation to the disaggregation of ETSA and Optima, the establishment of the NEM (national electricity market), the establishment of NECA and the establishment of NEMMCO, the management company. Not only were we supportive of the Government but we were prepared to be the lead State legislator. Here we are again tonight with a major piece of legislation of national significance supporting the Government.

In relation to every piece of significant electricity reform in this State's recent history, this Opposition has cooperated in a bipartisan fashion and, I might add, that has included changing various pieces of legislation on the way through from the Government's original proposition. That is not the story that the Premier or the business community paints of the Opposition because, for many, it does not suit their political agenda. However, at the end of the day, we have been, where we have had to be, a very responsible Opposition in that we have supported economic changes to the way in which we do things in this State and this nation because we believed that they were in the best interests of our State. Sure, we have not agreed with privatisation—absolutely, in that regard, we are diametrically opposed to the policy position of the Government—and some would say that that is not an insignificant policy different. They are right: it is not insignificant.

However, today we can say that we could have been a very obstructionist, very difficult and, indeed, very destructive Opposition had we chosen not to work with the Government in a bipartisan manner throughout the chain of events of those three or four pieces of legislation. I simply say to the business community in this State: 'Please understand that; do not believe the rhetoric of the Premier.' Fundamentally, this Opposition has been a reformist, responsible and bipartisan Opposition on major policy issues, which, in Opposition, is a little difficult to do from time to time, but we have done it because we have believed it to be in the best interests of the State.

With regard to this piece of legislation, I have to say—and as I said to the adviser when I was briefed, to my colleagues and to others—that the proposition to give NEMMCO potentially up to 12 months unlimited immunity is an extraordinary piece of policy. The Independent members in the Upper House (Terry Cameron and Nick Xenophon) issued press releases indicating that they would oppose it in Parliament, and the so-called Independents who sit on the crossbenches of this House approached me today wanting to know what our position is. I remind the Independent members of this Parliament that Independents are useful and are able

to block legislation only if the Opposition of the day chooses not to side with the Government. On this issue, we have put aside the narrow-minded views and what we consider to be the small picture held by the Independents and, I assume, the Democrats, and we support this legislation.

However, had I been the Minister at the table negotiating this matter, I would have reported back to my Leader and my colleagues in Cabinet saying, 'I am not happy with this.' For this Bill to be presented to Parliament so late in the piece—at the eleventh hour and fifty-ninth minute—to seek 12 months immunity, begs the question as to what officers, Ministers and Leaders have been doing for the best part of the last 12 months. They should have flagged this issue a lot sooner. I would have been thumping the table when these meetings were held wanting pretty good reasons as to why this legislation should be put in place.

However, the Opposition is prepared to acknowledge that it is not at that table. This issue has caused a lot of debate amongst my colleagues and it would be fair to say that many on my side of politics are very uncomfortable, as I am in part, with this decision. We took a collective view that, given that we are the lead State legislator, given that this has been worked through at officer and ministerial level by participating State Governments, were we to amend, block or reject this legislation tonight, we would be guilty of putting back the national electricity market. I suspect that not many of us would shed a tear over that, given that it seems to be getting put back all the time but, more importantly, we would have been criticised for blocking this reform.

We were not prepared to do that, because we are a strong, smart, sensible and responsible enough Opposition to understand that we are not at the table, we are not the Minister, we are not the Government and we are not the people who are making the decision. When we became the lead State legislator, we took responsibility for being the Parliament in which amendments would occur. Whether it is a Labor or Liberal Opposition in the State of South Australia when these things happen, that Opposition is at the margin when it comes to influencing outcomes. We took a collective decision and I am sure that a number of my colleagues will speak of their concerns about the Bill and how they would much prefer to oppose it, as I would, but we have taken a responsible position.

We do not expect a thank you card from the Premier or a short thank you note from the Treasurer. We simply say to the Premier and the Treasurer of this State: when you are out there playing your politics on ETSA privatisation, when you are out there criticising and being very rough on the Opposition, pause for a moment and remember that it could have been easy for us tonight to cause your Government, your policy makers and electricity policy makers around the nation great grief. We chose not to. We chose to avoid impending chaos to ensure that this legislation gets through. We do not expect a thank you card, but from time to time it would be useful if the Premier paused and realised that, with us, he has an Opposition that he can do business with. He should not treat us with contempt and arrogance, because we are an Opposition that he can do business with if he is prepared to talk to us.

The Hon. M.D. RANN (Leader of the Opposition): On behalf of the Opposition, I point out that we have a range of concerns, some of which I will go into. The Bill before us seeks to alter arrangements for the national electricity market prior to its scheduled introduction on 15 November, which

is again to be delayed. The Bill also seeks to provide immunity for 12 months to NEMMCO and to NEMMCO's management, staff and workers in relation to any act or omission in the exercise of NEMMCO's functions or powers. This concerns me greatly but I am aware that, for the operation of the national electricity market, South Australia is the lead legislator, so what we do here will automatically take effect in three other States and the ACT. If we were to reject or amend this legislation, as it would have been most tempting to do—and, because of the statements made by Mr Xenophon and Mr Cameron in the Upper House, it could have been done effectively in that place—we would have ensured the sabotage of the start up of the national electricity market and maybe even its existence.

The Opposition is vehemently opposed to the privatisation of our electricity. We are not, however, opposed to the national electricity market. Other States which will be part of the national electricity market will participate with publicly owned utilities and infrastructure. There is nothing inconsistent in what I am saying. We can believe in public ownership, management and control of our electricity assets but we can also believe in effective participation in the national electricity market, as do other States.

I strongly urge all members to read the Premier's contribution to this House when, as Minister for Infrastructure on 29 May 1996, he introduced a Bill for an Act to make provision for the operation of a national electricity market. It was a day of shame in terms of deceit—the deliberate deceiving of this Parliament and the people of South Australia. Let us go to the core of what the now Premier said about the national electricity market and NEMMCO. On 29 May 1996, the Premier said that his Bill heralded a new area for competition, trading and regulation of the generation, transmission, distribution and supply of electricity in south-eastern Australia. The Premier said that plans for the grid had been in the making since the Special Premiers' Conferences of October 1990 and July 1991.

This House was told that South Australia vigorously pursued and won the role as lead legislator and, as such, South Australia was responsible for enacting the national electricity law as a schedule to this Bill. We were told that, when established, the electricity market would be a competitive, wholesale electricity market comprising a comprehensive and integrated set of wholesale trading arrangements applying in the participating jurisdictions. We were told that it would enable electricity produced by generators to be traded through a common electricity pool serving the interconnected States and Territory. The dispatch of electricity from generators with an output greater than 30 megawatts would be coordinated by a newly formed national organisation, NEMMCO, established by the participating jurisdictions under a multi-State system control process.

On that day in 1996, the Opposition indicated that it would, in the interests of bipartisanship, facilitate what we described as an important piece of legislation. However, we indicated that we were given a very short time to consider the ramifications and rationale of extremely complex legislation. Once again, the Government has given us a very short time for adequate consideration of such important and complex amending legislation. Not even the basic rule of one week's notice was provided before it was dealt with in the Upper House, and the Minister again appears to have botched negotiations and wants us to bail him out of embarrassment.

Let us go back to May 1996 and the NEMMCO debate. The member for Torrens raised concerns on that day about

the Bill. The member for Price raised concerns and said that he saw the Bill as the thin end of the wedge for privatisation. How true that was. During questions in Committee, the Premier was asked about the pricing system and the impact of NEMMCO on our electricity Bills. I want to quote the remarks of the Minister for Infrastructure, now the Premier, to remind people of what was said in this House on this issue about this legislation two years ago. He stated:

As far as residential customers are concerned, there would be no difficulty, just like the water deal. The water still runs out of the tap, the loos still flush, the price has not gone up and there is no change.

That is what the Minister said two years ago. But the price has gone up, and things that were in the contract—or that we were told were in the contract—were either not enforced or were not even in the contract, even though this Parliament was told that they were. On that day, the member for Hart asked:

Concerning the issue of civil liability, in the event of contractual breaches or common law actions for negligence and consequential losses, I have some information that suggests the code indemnifies NECA but not NEMMCO.

That was a very prescient point. The Minister, now Premier, replied:

I am advised that if NEMMCO enters into any contracts it has civil liability, as does any other corporation law company.

That is what we were told two years ago. We had all this baloney going on. We were told it was the same as the water deal, there were no problems and it was all very smooth. On the issue of liability, when the member for Hart asked the question, he said that NEMMCO would sustain the same liability for damages as any other company in Australia that enters into contract. Of course, we know once again about how the Premier either misled the House or did not know what he was talking about on that day.

In the year of the Auckland power crisis and in the year of the Melbourne gas disaster, NEMMCO partners have apparently panicked. They want to cover their backsides. If there is a crisis and NEMMCO is to blame, no industry, business or citizen will be able to take legal action to recover damages. NEMMCO partners are asking this Parliament for a vote of no confidence in their expertise or operational skills. However, as the member for Hart has just pointed out, we are here to help. If we successfully defeated the indemnity clause to make NEMMCO as liable as any other company, then the whole national electricity market would crash, with zero chance of not only starting on time but even starting late.

So, once again, the Opposition will be bipartisan, but there will be no recognition of that from the Treasurer in the Upper House, because we went to a briefing with him about the sale of ETSA, and he put out a statement which showed basically that his staff at least were prepared to totally mislead the public about what went on. We will be bipartisan. However, I must say that I have no confidence in what the Premier tells this House about NEMMCO. We must remember that it was on the same day as the original NEMMCO debate that the Premier also introduced the Electricity Corporations (Generation Corporation) Amendment Bill. I made some comments and was subjected to a vicious attack about the veracity of what I said. On that day I said:

The Opposition and the people of South Australia know only too well that the agenda of the Government is to put the control and operation of fundamental public utilities into the hands of private foreign corporations.

We all know about the clause of the Bill that rules out wholesale privatisation of the electricity corporation, but we all know the track record of this Government in playing with words, particularly

'privatisation' and 'outsourcing'. This Government lied to the people when it said it had no plans to privatise or outsource South Australian Water. We know the track record of this Government when it comes to words like 'transparency' and 'accountability to Parliament', and we know the track record of the Minister for Infrastructure in particular playing with words like 'privatisation' and 'outsourcing'.

That is what I said that day, and I was attacked for saying so. But what did the now Premier say on that day? He said that he was 'somewhat surprised at the bile that was dumped on me by the Leader of the Opposition. It was quite unjustified, unwarranted and, indeed, inaccurate'. He said:

I have been totally frank, open and honest in this Parliament. In fact, some people have suggested to me that my frankness, my straightforwardness, has cost me dearly during my political career. There is a range of views I wanted to counter, and first and foremost is the question of privatisation.

And this is today's Premier talking:

It is politically advantageous [for the Opposition] to keep talking about privatisation and repeating it over and over again, hoping that some member will believe it. In fact, it is not true. I understand the Opposition's political motivation, but it is not politically honest.

That is what he said on that day two years ago. I will keep quoting from the Premier, as follows:

We said it from the start, because it is not the Government's intention to privatise ETSA; full stop and no qualifications in relation to that statement. The Government has no such intention. We are proposing—

and I repeat it for the benefit of members opposite—

to put in place a separate generation entity that will be a wholly owned Government business enterprise. It will not be sold. It has never been intended that it be sold or privatised as the Opposition would want us to believe and would want the public to believe.

That is what the Premier said on that day, a couple of years ago, when we dealt with two electricity Bills—one involving NEMMCO and one dealing with electricity generation. I was attacked for being dishonest in saying that I believed that the subtext was that the Premier wanted to privatise or outsource ETSA. The Premier said, 'No such thing; full stop!' That was the Premier in this House giving his particular and peculiar version of the truth. I and the Opposition will support the Bill, but we are deeply worried. As the Hon. Paul Holloway said in another place:

It is a hardly a vote of confidence in the national electricity market that in the eleventh hour we have to rush through immunity for NEMMCO. Much has been said by this Government about the increasing risks under the national electricity market. There will certainly be no risk for NEMMCO when this Bill is passed, because that risk will be eliminated by legislation.

What will happen? Let us remember the Auckland crisis earlier in the year. My mother lives in Auckland, and apparently Auckland was turned into a third world zone, with security guards roaming the streets with torches at night. What would happen if NEMMCO's computer system crashes—the computer system that will operate the national electricity market? What would happen if a system failure resulted in power cuts that seriously damaged South Australian industry, placed local businesses in peril and hurt consumers? Who would compensate businesses, industry and the people of South Australia? The answer would be, it would seem from this legislation, that if NEMMCO were responsible, there would be absolutely no right whatsoever for compensation, because we are providing immunity from liability.

I again agree with the Hon. Paul Holloway that the Commonwealth, which has been driving the Hilmer reform, should play a leading role in providing an indemnity for the

system until appropriate insurance schemes are developed. We in the Labor Party are basically in a position where we are on a hiding to nothing. If we voted down this Bill, the Premier would say that we had wrecked the national electricity market, that we had torpedoed its start-up—albeit incredibly delayed—and that we had removed the opportunity for local business to save costs on electricity bills. We will support this Bill—albeit reluctantly—but, if there is a system crash, my message to the Government today is, 'Don't come running to us to share your blame.' As the member for Hart said, we were not around the negotiating table with the other States. It is quite clear that, if this Minister was doing his job properly, then he has failed in the task, because he has been out-negotiated.

I place on record our concerns about removing liability, because now for the start-up period, for up to 12 months, there is no insurance at all. It is like buying a house without any commitment to fire insurance. We are basically entering the national electricity market on a wing and a prayer, because this Government has been out-negotiated. The Opposition supports this Bill but, in doing so, wants to place on record that we are being asked by the NEMMCO partners to give a vote of no confidence in their expertise.

Ms HURLEY (Deputy Leader of the Opposition): I was a strong believer in the concept of the national electricity market in the beginning. It seemed to me eminently sensible that we would smooth out the excess generating capacity that was available in South Australia. It seemed self-evident that States in a parochial and perhaps political way had made wrong decisions, particularly about their generating capacity, and that a country like Australia which, in the 1980s and 1990s, recognised the need to make its businesses more competitive, to make its industry more competitive and to move into the export market, needed to take a more sensible approach to its power generation and distribution. Therefore, I was a strong believer in the concept.

However, the implementation of concepts always contains traps, and I believe that several traps have arisen in the implementation of that concept of a national electricity market. A small State like South Australia always has to be a little concerned, when it joins a coalition with other States, that it is not overrun by the interests of the larger States. This is true generally of competition policy. Instances such as this legislation only increase our paranoia that this might in fact be happening, because the largest States have got together and made a decision about the liability of NEMMCO with which we in South Australia have had to agree. There are other problems in that, to some extent, I think the power in determining NEMMCO's arrangements (and in competition policy generally) has been shifted somewhat to bureaucrats, because of the very nature of the structure and the need for cooperation and consultation about NEMMCO and competition policy generally, and the lead State arrangement of this legislation makes that particularly so.

If we had amended or voted successfully against this legislation, it would have had to go back for consultation with each of the States, with the bureaucrats in each of those States, and it would have significantly delayed the start of the national electricity market. That has very serious implications for businesses and industry around Australia and for those power generating and transmitting companies that are part of the national electricity market, as well as others in Queensland that may shortly become part of that market. It is a risk to industry in Australia that the Labor Party in the end

decided it would not take. As described by the member for Hart, the Labor Party took the responsible view on that matter and agreed to cooperate with the Government, with certain reservations—bearing in mind also that, as we were informed, the electricity generators, the suppliers of electricity and the transmitters of electricity will still be liable for any negligence should it be their problem if electricity supplies fail.

It will only be in the systems control aspect, which I understand would be and large be the switching, where NEMMCO will have indemnity from liability. Given that NEMMCO was operating to some extent already and had conducted an extensive trial, my personal view was that it was unlikely that dramatic and prolonged events would cause great disruption to industry in Australia, and to South Australia in particular. I certainly hope that that view is justified in the next year, while NEMMCO still has that liability. So, those are my reservations about this Bill. I hope that the national electricity market does operate smoothly and effectively in the future.

One wonders what it is about the operations of NEMMCO that required it to seek this indemnity. We were informed by the Premier today that the national electricity market is now due to start up on 13 December, I believe he said. It would be difficult to delay it much longer than that. The Opposition has cooperated before on gas and electricity legislation that was then not needed in the time that we had been told. I believe we passed it in a week on that occasion as well, and the start-up time for that legislation was significantly delayed. I hope that this is not again an instance where we in the South Australian Parliament have been rushed into considering legislation when that has not been necessary.

Mrs GERAGHTY (Torrens): In his second reading explanation the Attorney-General outlined this Bill and, in particular, detailed the amendments relating to immunity for NEMMCO. He indicated that that immunity extends to officers and employees and is an immunity from liability to pay damages or compensation to third parties for any act or omission in the performance or exercise of a function or power of NEMMCO under the national electricity law or the national electricity code. He also stated that the immunity will extend to all such acts or omissions except those done or made in bad faith. On the expiry of that period, the immunity will cease to apply in respect of negligence, acts or omissions.

He talks about the cap, stating that it will vary in its application or amount depending on, among other things, the nature of the loss. It is this aspect of the Bill that leaves many of us with quite a number of fears and concerns. As has been said, it was just last week that this Bill was rushed through the other place and then only the following day was the announcement made that it is going to be delayed until December. It seems to me that we could have taken more time to deal with this issue, particularly the issue of immunity, given that the urgency factor was not so urgent after all. The delay in the commencement date must have been known prior to the Bill's being dealt with in the Council but, for some reason, it was just pushed through.

The immunity from liability clause, as has been said, leaves the community with concerns about the reliability of NEMMCO, and I must express some personal feelings that it deepens the concerns and doubts about the national energy market and its operation. This amendment fails to instil any confidence in us. Our Leader has already cited the examples of the New Zealand and Victorian disasters and described the

impact on those communities, and I think that our concerns are genuine. The Attorney also went on to say:

It is expected that options for insurance will be fully explored over the next 12 months.

I find that somewhat interesting in that there has been ample time to look at this. People who establish businesses in the community plan well ahead and usually ensure that they have proper coverage for liability before their business commences. I fail to understand why, even though NEMMCO is a non-profit generating organisation and has a limited capital base, it should be given such exemptions and particularly for such a length of time. At worst, the immunity could have been cut down to a couple of months, but 12 months is just extraordinary.

As the lead speaker stated, I do not believe that that carries any particular status for us in this case, and we ought to be much more careful. We should have been given a great deal more information about template legislation than the minimal and limited amount of information that has been shared with us. In this time of change for all Australians, to go down this path with such great haste leaves a very bad taste in the mouth and a very uncomfortable feeling.

Mr WILLIAMS (MacKillop): I rise, as many speakers have, to express my dismay at new section 77A which provides indemnity to NEMMCO for negligence, but I will return to that in a few moments. This piece of legislation was rushed through the Upper House last week, because at that stage there was a belief in the Upper House and among those members who supported it that there was a time constraint in that the start-up date was only a few days away.

Now that it has been put off for approximately one month we have a little more time and, considering that situation, I am rather curious at the attitude of the Opposition. Members opposite are all standing up, one after another, wanting to get on the public record their concerns about this, yet they want to make sure that they can come back, if there is some problem in the future, and say, 'This is not our fault', yet they are not willing to vote against this clause. What we are trying to do—

Members interjecting:

The ACTING SPEAKER (Hon. R.B. SUCH): Order! The member for MacKillop has the call.

Mr WILLIAMS: What we are doing here is offering an indemnity against negligence.

Mr Foley interjecting:

Mr WILLIAMS: If you do not like it, you have the opportunity to do something about it. So, I am rather curious about their position.

Members interjecting:

The ACTING SPEAKER: Order! The member for Wright is starting to annoy the Chair. She will desist from interjecting.

Mr WILLIAMS: I am rather curious about the position the Opposition has taken on this clause, but I am even more curious why a Government would want to give anybody indemnity against negligence. The excuse seems to be that NEMMCO is a non-profit organisation without a substantial capital base. That would apply to many organisations in this country that are all forced to wear the responsibility they have within the community, and certainly they would be liable to legal suit if they were found to be negligent. I think that is an extremely poor excuse.

From memory, the start-up date was originally 29 March this year, and it has been pushed back and pushed back because of some problems. There is a substantial risk in relation to the operation of the electricity system. This is what was said in the Upper House when the Bill was introduced. I suggest that the substantial risk could be to the consumers of electricity in Australia and South Australia. It is incumbent upon this Parliament to protect those consumers. The Opposition may wish to be in a position to say, 'We told you so' and yet support this, but I do not support this. It is not what the public of South Australia expects from this place, and that is the position I will be taking later in the debate.

Ms THOMPSON (Reynell): As you would be aware, Mr Acting Speaker, I have some rather large consumers of electricity in my electorate, so I took the opportunity to consult with them as to their views on this Bill and the impact on them should there be a disaster, which we hope there will not be, when NEMMCO is indemnified. I did give them an extremely tight time line in that I wanted to be able to input any material into the debate in another place, but I was pleased that one of the very large organisations did get back to me.

It seems that the reservations and concerns about NEMMCO and this whole process of establishing NEMMCO are not confined to the Opposition nor the member for MacKillop. I do not wish to name the organisation here, although I am very happy to provide that information to the Minister, but I was advised by this organisation's head office that it has grave reservations about whether or not NEMMCO will result in cheaper electricity.

It is extremely concerned that NEMMCO is not yet ready to undertake the task with which it is charged, and it wants a firm date because it has already been put to considerable inconvenience by having to prepare proposals for the supply of its considerable amounts of electricity. So, I do not think it will be happy at all tomorrow to find my voicemail message about yet another delay in the establishment of NEMMCO.

This experience from a major multinational indicates that the Opposition is not running around being alarmist, that this Government and Governments in all States and federally need to do a lot more work with the business community in order to ensure that they are responsible and capable of establishing this new organisation which has the potential to have such a significant impact on our community. The organisation's reaction to the indemnity was that it was not happy about it. However, when it thought it through, it believed that, if there were a problem, the major consumers of electricity would end up paying in any case, whichever way it looked at it. So, if it would help the organisation get going and remove the uncertainty with which it has been living since March this year, it decided that it was happy to go along with it.

So, there is a need for improvement in performance in this area. It is unsettling industry. We all know that one of the prime requirements of industry is some certainty in the market so they can make their business decisions in the light of clear information, and this is not being provided at the moment to some of the major international industries operating in Australia, and my concern is particularly in the electorate of Reynell. I hope that this matter can be clarified very quickly and that we can have a clear picture for our industry so they can make their decisions in a state of information rather than continued uncertainty and 'do we start preparing a new submission or do we not?'

Mr CLARKE (Ross Smith): Like other members of this Chamber, I rise to express my concern with respect to clause 12 of the Bill and, in particular, the amendment to insert new section 77A in the principal Act. In some respects I have some sympathy for the viewpoint expressed by the member for MacKillop because I do not think it is good enough for this Parliament to pass legislation that grants immunity for a period of 12 months with respect to NEMMCO for any negligent acts on its part. The Opposition has already stated that it will support the Bill, and as a member of the Labor Party I will also support the passage of the legislation. I also draw the attention of members of this place to comments made by the Treasurer in another place on this very aspect, which do not allay but only confirm my fears about this Parliament rushing headlong into the passage of this legislation.

To go back a few steps, it seems that the argument is that this is a national electricity market; several States have agreed to enter into the market; template legislation was brought before the South Australian Parliament; we were the lead State; other States involved in that market automatically pick up whatever legislation we enact in South Australia; that this is the best compromise that could be arranged between the various heads of Government or their representatives; and that is how they arrived at the immunity position for a period of 12 months.

Is this sovereign Parliament saying that we can do nothing about the types of arrangements we enter into, and that once there is a centralised agreement we as a State Parliament play no further role? If so, then let us not pretend any further that we have a role in these matters as a sovereign Parliament but let us cede our powers to the Commonwealth or some other organisation, such as the heads of Government, to do as they choose. Let us not go through this nonsense of having sovereign Parliaments look at the legislation, debate it, vote on it and decide on its fate.

We are going through a pantomime because we are told by the Government that this deal is done at heads of Government level, that the South Australian Government, notwithstanding its own sovereign powers, and notwithstanding that this Parliament is sovereign in its own right to pass its own laws as to what it considers fair and reasonable in this matter, has no power whatsoever. In other words, we must enact an agreement that was entered into by an unelected group of bureaucrats at a centralised level who say that this is what we should do.

Mr Atkinson interjecting:

Mr CLARKE: If the member for Spence knew my history—

The ACTING SPEAKER: Order! The member for Spence will cease interjecting.

Mr CLARKE: I enjoy his interjections, Sir.

The ACTING SPEAKER: Well, I do not. The member for Ross Smith has the call.

Mr CLARKE: If the member for Spence studied my history he would know that as a former Secretary of the Clerks Union of this State I very much opposed centralised power within my national body, particularly when it was under the tyrannical leadership of John Maynes. However, dealing with this issue, I find it absurd for a State Government to come to this Parliament and say, 'We are a sovereign Parliament with sovereign rights; we are allowing you to debate this legislation but in fact it is all a fraud because it is a deal done at central level and we as a State Government have no power to accept any amendment, and if you reject it

you throw out the whole national electricity situation in this country, full stop. Whatever we agree to in South Australia automatically falls into place with respect to the other States of Australia.'

If that is what we are to do, let us do it in the original Bill and not pretend we are a sovereign State. Let us say in the original legislation that we have agreed to cede our powers to this body and that we have nothing further to contribute to it. Let us not waste the time of the State Parliament pretending we are sovereign. Let us own up to that fact. However, if we are not prepared to do that and we have a role as a State Parliament, let us do it conscientiously. Frankly, I find it outrightly stupid to give NEMMCO this immunity for 12 months with respect to any claims for negligence.

Mr Foley interjecting:

Mr CLARKE: As the shadow Treasurer pointed out, of course I will vote for it on the simple basis that, as a loyal member of the Labor Party and being loyal to the decision making process within the Caucus of the Labor Party, I will abide by it. The fact that I think it is utterly inane is my personal opinion, and I am not the only one in this House who thinks that happens to be the case. At least I am honest enough to own up to the fact that I am bound by a majority decision and I will carry it out.

I refer to the comments of the Treasurer. On 29 October 1998 he stated at page 77 of *Hansard*, on the issue of immunity:

It is fair to say that the propositions before the Parliament at the moment and before all the other jurisdictions do not represent my preferred position as Treasurer or indeed that of the South Australian Government. There are aspects that we would have preferred to be different in terms of the scheme of arrangement.

So, it is not just me or members of the Labor Party on this side of the House or in the other place who have voiced concerns about this measure: the Treasurer has indicated that the legislation on immunity now before this Parliament is not the preferred position of the State Government. He goes on to say:

There has been a view from some at the other end of the spectrum that this 12 month limited immunity should in fact continue forever for NEMMCO and its operations. That is not a position to which the South Australian Government was prepared to agree. That is a view that has been put and what you see before the Parliament is the result of a lot of hard work by officers of South Australia working with the other jurisdictions to try to seek some sort of compromise, some sort of agreement.

The Treasurer is saying that we have fought the good fight; we do not agree with the 12 months immunity, but we will cop it because the other side has beaten us into the ground, even though we are supposedly a sovereign jurisdiction in our own right.

On the other hand, if in 12 months no insurance has been taken out by NEMMCO to cover these civil liberties, I have no doubt whatsoever that the other jurisdictions the Treasurer refers to will get together again with the South Australian Government and ask us as the lead State in this legislation to again pass a piece of enabling legislation to extend the period of immunity, unless there is agreement to get some insurance coverage within that 12 months.

This Government has shown itself incapable of standing up to the resistance of the other jurisdictions in this area because, notwithstanding that it does not want this legislation on immunity on the books, it has been rolled at national level and I suggest that if, in 12 months there is no further progress with respect to insurance on this matter, we will have the same Minister come back to this House saying, 'We are

compelled by the other States or other jurisdictions to extend it for another 12 months'. It will go on and on.

If that is to be the case, this Government should be honest about it and say that this Parliament frankly does not rate a row of beans nationally in this matter, that we hand over the control of this issue to the centralised authority and admit that we are not masters of our own destiny. The Treasurer further said:

It therefore places enormous pressure in the next 12 months on NEMMCO—

again referring to an attempt to get the insurance—

and the other jurisdictions to sort out some sort of insurance arrangement, probably with some sort of cap on liability,—

The ACTING SPEAKER: The member for Ross Smith needs to be careful how he uses debates from the other place in terms of debating with the Treasurer. The issue must be focused within this House.

Mr CLARKE: I am simply quoting the Treasurer. I continue:

... in terms of how NEMMCO will operate. Anything is possible: it could occur in three months, one month or one week. But to be fair and frank—

and this is from the Treasurer—'fair and frank'—that will not go on his tombstone—

and I do not want to mislead members—

and that would be something unusual—

this is an extraordinarily difficult task, and I suspect that it will take all of the six to 12 months to resolve the issue.

The ACTING SPEAKER: The honourable member is straying again into debate from another place.

Mr CLARKE: I simply say that the references I have read from debates in another place point out that the Treasurer himself recognises that, quite frankly, it is probably very unlikely that the issue of insurance covering the liability of NEMMCO will be solved within the next 12 months, and that we will be back here in 12 months seeking an extension of time with respect to this unlimited liability. What I resent most of all, as I said earlier, is that we go through this foreplay as if we matter one iota as a State Parliament.

I am constantly being told, whether it be within our own Party or by the Government opposite, 'You just have to cop the national decision.' We actually do not have a role in this place. We are going through a role-playing exercise. As I said earlier in my contribution, if that is the case, let us be honest and move an amendment tonight that cedes our authority to some other Parliament or some other body to make the decisions for us because, quite frankly, if this Parliament and its elected members can only go through the exercise of breast beating and flapping of the gums because our vote does not matter one iota—it is take it or leave it, because that is the deal that has been done by the heads of Government—let us not waste our time any further.

Let us just say to the Treasurer of this State, 'You have convinced us.' The Parliament of South Australia is utterly irrelevant. It is about as irrelevant as the Legislative Council. We should have handed over the powers to this other body so that we did not have to waste the last hour of our time in this Chamber debating something which we cannot affect. We can neither block nor amend: we just have to put up with it, despite the fact that every member on both sides of the House does not actually agree with immunity being granted to NEMMCO. The Treasurer in another place has specifically stated that the granting of immunity to NEMMCO for the next 12 months is not his preferred position, nor is it that of

the South Australian Government. But here we are, in this jurisdiction, granting that very same immunity with which the Treasurer said he does not agree, and nor does the South Australian Government, but we have had the gun put to our head. I again say that we should be honest about it. Let us just pass an amendment which says, 'In so far as NEMMCO is concerned, the South Australian Parliament cedes all its authority to this body and we will have nothing further to do with it, because we will not play act any further.'

I conclude my comments on a general note with respect to not only this legislation but similar legislation in respect of national competition policies. I know that I am a member of a Party that had Paul Keating as the Prime Minister. He waxed lyrical about the national competition policies and various other things. There were some cogent reasons for a Labor Government at a Federal level to adopt those sorts of policies at that time, but it is also fair to say that, in terms of national competition policies, what was seen in 1991 and how it has translated in actuality in 1998 are two enormously different things.

A number of people warned about the consequences of going down the Keating road of 1991 and where we would end up, saying that the national competition policies would further erode State sovereignty and the taxing and income base of the States. Those people have been proved correct and the States have not received compensating moneys anywhere near the amount that they should have received to compensate for that loss of independence and ability to raise their own revenue in those areas. I urge the Government—and I know that it is probably several years too late but we should urge our own respective Federal Parties in this area—that, if we do not want States to be other than administrative arrangements to carry out Federal Government functions, let us give the powers to the Commonwealth Government. Let us save the taxpayers of this and every other State huge sums of money, with separate bureaucracies, separate Parliaments and all the rest of it.

If we are to have no powers to do anything and we want to be totally controlled at a central level with virtually no flexibility and be no more than chief administrative officers in particular regions to carry out Federal Government policies, then let us be honest enough to own up, give ourselves a pay off, go into our retirement to write our memoirs, or whatever else, and save the people of South Australia the hassle of electing a Parliament every four years. Governments of all political persuasions should be honest enough to say that. In terms of template legislation and the like, I believe that this immunity issue is just another wedge to show that, in fact, State Parliaments in this area are rendered less useful than a eunuch, quite frankly. If that is the case, let us—

Mr Atkinson interjecting:

Mr CLARKE: Eunuchs were very useful to ensure certain things but—

Mr Atkinson interjecting:

Mr CLARKE: The member for Spence once again taunts me. If I only had time to answer the interjections. But I will simply—

The ACTING SPEAKER: The honourable member should not respond to interjections because they are out of order. The member for Spence should not focus on eunuchs or anything else irrelevant.

Mr CLARKE: Whilst we are bound, hog tied, to the passage of this legislation, I would think that—

Mr Atkinson: You are: we are going voluntarily.

Mr CLARKE: I will not respond. A reply was on the tip of my tongue but why should I give the Liberals comfort with what I was going to say? I simply urge the Parliament and, in particular, the Government of the day that, in matters such as this, if it is not thinking about State sovereignty, hand it over to someone and let us all save ourselves a lot of time.

Mr McEWEN (Gordon): I could not possibly support any strategy to allow immunity to NEMMCO. I believe it is totally hypocritical that the Liberal Government would even put forward this proposition given that it is averse to any risk; and it has been an aversion to risk that has underpinned its argument in relation to the privatisation of all those elements that make up ETSA and Optima. Although the member for Ross Smith is particularly rambling and repetitive, I would have to support the fact that this is just further loss of State sovereignty. It is not only hypocritical but a denial of sovereignty, and I cannot see how I can support it.

The Hon. M.R. BUCKBY (Minister for Education, Children's Services and Training): I thank members for their contributions tonight and I recognise the support of the Opposition in allowing this Bill to pass through this House and this Parliament. The national electricity market is extremely complex in nature. When I was working for the Centre for Economic Studies in 1992, I was involved in discussions with ETSA about the setting up of the market at that stage and the complexities that would arise because of the various systems set up in each State.

The member for Ross Smith mentioned our giving up our sovereignty. When a national market is being set up, the cooperation of all States is required, or the interaction of the member States, in the market. If the States have a different position in terms of immunity or other aspects of the market, obviously some negotiation has to take place to enable the market to commence and to work. As a result, some States will be unhappy and others will be happy and, hopefully, we will come—

Mr Clarke interjecting:

The Hon. M.R. BUCKBY: I will get to that. It may be that some will be satisfied with the outcome or none will be satisfied with the outcome because it is one that has been ameliorated between all States. In this case, the Treasurer indicated that he was not happy that other States were proposing that indemnity be given for an unprescribed length of time, thus he negotiated it back to 12 months. The 12 months will allow us to review the insurance factor and enable us to limit the indemnity to a certain period. Some other States wanted that to remain for a far longer time.

Mr Clarke interjecting:

The Hon. M.R. BUCKBY: Exactly; forever. We do not agree with that and that is the reason why the Treasurer in the other place suggested and negotiated that it be limited to 12 months. If, as the member for Ross Smith is saying, we had rolled over and let the other States have their way, we could have had indemnity forever. I do not agree with that and I know that the Treasurer does not agree with that either, and that is the reason why 12 months is proposed.

The question is: why should we have that indemnity? NEMMCO is a body with a very low capital base. For instance, if negligence were proven in a claim for some millions of dollars between a generator and/or a service provider and NEMMCO, it is quite possible that—

Mr Conlon interjecting:

The Hon. M.R. BUCKBY: Yes, as the member for Elder says, NEMMCO would then fall over. In that case, this State would be liable for up to \$1.5 million: it is capped at \$1.5 million. The other fact that members have to take into consideration is that this is a new market. When you approach insurance companies and ask—as has been done—‘For how much can we insure against this?’, the answer has been: ‘We are not sure of the risk because it is a new market.’ As a result, obviously you will be charged at the higher end of the scale rather than being charged for what the actual risk might be. By allowing that indemnity for 12 months, the insurance industry can look at the level of risk associated with this market and determine what premium should be paid in terms of the level of risk being taken. There are some important reasons for this 12 month period.

It has also been suggested by members opposite and by Independent members in this place that there may well be a risk to consumers in this State if there is a service breakdown. I am advised that, if a complete breakdown of the NEMMCO computer system occurred, the practical outcome would be that the power generation would revert to each State and consumers and businesses would still be supplied. The breakdown of the computer system would be recognised and there would be a reversion to each State, with each State supplying their own customers’ requirements. So, there is no risk in terms of power supply to customers and to users within the State.

Mr Clarke: So, there is virtually no risk.

The Hon. M.R. BUCKBY: No, that is not correct. For instance, the current services that ETSA has to provide to South Australian consumers will continue. There is no change to that. The risk is between NEMMCO and the service providers and, in terms of daily operations and the security of the national market, between the service providers and NEMMCO itself in its operations—

Mr Clarke interjecting:

The Hon. M.R. BUCKBY: The member for Ross Smith interjects and asks, ‘Why will the companies not insure?’ It is because this is a new market and they do not know the level of risk. That is the reason for their sitting off for 12 months and assessing the risk. There are a number of reasons why this should happen.

The Leader of the Opposition has identified correctly that any amendment to this Bill would jeopardise the commencement of NEMMCO. As this has been delayed on a couple of occasions, I believe that the Opposition is being responsible in saying, ‘Let us get it up and running. We will pass this Bill without amendment to ensure that we as the lead State for this legislation are not holding up this matter any further.’ I appreciate that support.

The member for MacKillop raised the issue of negligence and asked why this has been eliminated because, at the moment, NEMMCO is responsible in terms of negligence and bad faith. As I said earlier, because of the low capital base of this company, the element of negligence is now taken out in bad faith, which means that it has knowingly to undertake an action which will be harmful to a service provider. I believe that there are good reasons for this measure. There is no doubt that this is a complex market. The reason why this was not raised previously is the fact of their having to work through the model to set up this measure. Obviously, these issues arose when the operations of the model were worked through and tested, and this is the time to address them. I thank members for their contributions and I look forward to any questions that might be raised in Committee.

Bill read a second time.

In Committee.

Clauses 1 to 11 passed.

Clause 12.

Mr CLARKE: I will not labour the points that I made in my second reading speech but I notice from the *Hansard* report of the Treasurer’s answers to questions in another place that he alluded to the point that other jurisdictions would have liked this 12 month immunity to go on ‘forever’ but that was not a position that the South Australian Government supported. My question therefore to the Minister is this: in the event that there is no satisfactory arrangement with respect to insurance coverage for the public liability of NEMMCO within the 12 months from the date of proclamation of this legislation, will the South Australian Government’s view be that it will not support any continuation of the immunity to liability by NEMMCO to the extent that it will not legislate to allow for an extension beyond the 12 months provided for under this Bill?

The Hon. M.R. BUCKBY: It is a hypothetical question as to what the insurance outcome might be in 12 months but, if in 12 months the insurance issue is not resolved, and this legislation lasts only for that 12 month period, NEMMCO would fall back into liability for negligence and also for bad faith. If negligence were proven by a service provider under certain circumstances, and that meant that NEMMCO fell over, our liability of \$1.5 million, which I spoke of earlier, is what it would be capped at, so I guess we would have to go back to the drawing board in terms of a national electricity market.

Mr CLARKE: If I am more specific in my question I might get a more specific answer. If there is any application by NEMMCO or other jurisdictions to amend this legislation to extend the period of immunity beyond the 12 months contemplated in this Bill, will the South Australian Government refuse to agree to the extension of such an immunity and refuse to put such legislation before this Parliament, or will it roll over to the majority decision and effectively prove that we have no sovereignty in this matter?

The Hon. M.R. BUCKBY: To try to answer the honourable member’s question directly, I imagine that, given the Treasurer’s stance on this issue in not agreeing to an unlimited time, if it comes to the end of the 12 months and the issue is not decided, he would not be in favour of considering an open-ended period. A fixed period might well be set again but the hope is that the insurance issue will be sorted out within the 12 months. If it comes back to this Parliament and it has not been sorted out within 12 months, I suspect, although I cannot answer for the Treasurer because he is the one involved in the negotiations and has the feel—

Mr Clarke: You are answering for him in this Chamber.

The Hon. M.R. BUCKBY: I am well aware of that, but the point is that we cannot predict what the situation will be in 12 months and neither can the honourable member. In 12 months the situation will be assessed and it is hoped that within that period the insurance question will be sorted out. If it is not sorted out, that will be a decision in 12 months in terms of what the market conditions are at that time.

Mr CLARKE: My interpretation of what the Minister has said is that this 12 month sunset clause is a nonsense because, effectively, the Minister has just confirmed that—

Mr Hanna: The sun may never set.

Mr CLARKE: As the member for Mitchell says, the sun may never set. If there are no insurance arrangements in 12 months, the Government will get back in its cave with the

other jurisdictions to decide this issue. If something is not fixed up in 12 months, or if enough of them beat up the South Australian Government because they want a further 12 month or five year extension, the South Australian Government, notwithstanding its view now (which is that it does not agree with immunity being granted although it has been reluctantly forced to give at least 12 months), will roll over, if necessary, and give an additional extension with respect to immunity. If that goes between now and the year 2050 or beyond, the Government will do it.

The Hon. M.R. BUCKBY: The member for Ross Smith is jumping to conclusions. It is hoped that the insurance matter will be settled within the 12 months. If at the end of 12 months it is not, it may well be that the members of NEMMCO decide that an entirely different regime needs to be set up. We may need to go back to the drawing board if that cannot be settled and we may have to look at it again. This is a new market and the people who are setting it up are looking at what will work, at how to protect the community and how to ensure that it operates efficiently. They are basically learning as they go in a lot of instances.

Like any new system, there undoubtedly will be teething problems that will have to be worked through. This is one of those problems that have been encountered, and our Treasurer has said that we will accept 12 months. As I said, it is a matter of looking at the whole system after that 12 months and assessing it then.

Mr WILLIAMS: To whom is the Treasurer referring when he says 'we'?

The Hon. M.R. BUCKBY: The responsible Minister is the Treasurer, and he and his departmental officers have been leading negotiations in this matter on behalf of the Government of South Australia.

Mr WILLIAMS: This is not a sunset clause and it might go on forever. Indeed, this Parliament may never have the opportunity to revisit the date. We keep talking about 12 months, but there is nothing in this Bill that provides that it will be 12 months. Is that how the Minister sees it?

The Hon. M.R. BUCKBY: It is correct to say that it would not come back to Parliament. However, to change the date would require the agreement of all parties involved in NEMMCO. It would be a matter not just of one party but of all parties agreeing on the date being changed. The date would be set in the regulations, and it would not necessarily come back to this Parliament.

Mr ATKINSON: If all States and Territories that are parties to NEMMCO agreed that the immunity would continue indefinitely, that would not need to come back to the South Australian Parliament.

The Hon. M.R. BUCKBY: We would not change our stance from what the Treasurer has already indicated, as we do not agree with the indemnity, anyway. It is a matter of all bodies agreeing on a date. However, the regulations state that a day has to be set. It could not go on indefinitely; it would have to be in 12 months, two years, five years or 10 years. A day would have to be set in the regulations, and that would not come back to Parliament; it would be set in the regulations, and the agreement of all parties is required to change that regulation.

Mr ATKINSON: If the State of South Australia were, pursuant to a Cabinet decision, to change its position on 12 months immunity and agree with other jurisdictions on indefinite immunity, then the prescribed date could be changed under the regulations to be a date far into the future,

and the matter would not come back to the South Australian Parliament; is that the situation?

The Hon. M.R. BUCKBY: Yes, the member for Spence interprets it correctly. However, I reiterate that our stance has been that we do not agree to it now, and we would not be agreeing to an open-ended indemnity.

Mr FOLEY: Having been briefed with the Deputy Leader and the shadow Finance Minister, I point out that that certainly was not the information that was provided by officers at our briefing. It was clearly stated to us that it would be 12 months. Why did officers fail to provide the Opposition with that information at our briefing?

The Hon. M.R. BUCKBY: We have consistently stated—and we stand by this—that 12 months is the maximum period we see this standing for. If the insurance question can be sorted out, it could involve a lesser period. However, we have said that at this stage 12 months is the period we will accept.

Mr FOLEY: The Opposition's cooperation on this can go only so far. What was advised to the Opposition—and this is what I have Caucus approval for, and any deviation from that will require us to reconsider the issue—was that a date would be fixed up to 12 months. Implicit in that was that, if for unforeseen or any other reasons, a further extension were required, the Act would have to be further amended. That was the advice and certainly the implied position of the advisers. As I said, I am prepared to accept that this is template legislation: we have national obligations, and we may not like what we are doing, but we are not about to agree to ceding power to bureaucrats. If what you are saying to me now is that there is no requirement to come back to this Parliament, we have been poorly advised by the Government's advisers, and we will seek to adjourn the legislation.

The Hon. M.R. BUCKBY: We have agreed to a period of up to 12 months. If at the end of 12 months the issue has not been sorted out, we do not have to agree to any further period. We can say that we will revert to the situation that existed prior to this amendment to the Act, and NEMMCO would then be liable for negligence and for bad faith. If it gets to the end of 12 months and we do not agree with the period that will be suggested, and let us say other States suggest that we go for another 12 months, we do not have to agree to that; we can say 'No'—

Members interjecting:

The Hon. M.R. BUCKBY: For a change in the regulation, all States have to agree. If we do not agree to any further extension of time, it reverts to the current situation, where they are liable for negligence and bad faith.

Mr FOLEY: I move:

That the Committee report progress.

Question—'That the Committee report progress'—declared negatived.

Mr FOLEY: Divide!

While the division was being held:

The ACTING CHAIRMAN (Mr Lewis:) Order! There being only one member on the negative side, the motion passes.

Progress reported; Committee to sit again.

JUDGES' PENSIONS (PRESERVED PENSIONS) AMENDMENT BILL

Second reading.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): 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 *Judges' Pensions Act 1971*, to provide for the preservation of a pension entitlement where a Judge resigns before attaining the age of 60 years.

The *Judges' Pensions Act* provides that a Judge is entitled to a pension upon retirement, or having attained the age of 60 years and having not less than 10 years judicial service, resigns. The maximum pension payable under the Act is 60 per cent of the judicial salary at the date of ceasing to hold office. Where a Judge resigns before attaining the age of 60 years, no entitlement is payable under the Act.

The general aim of the Bill is to provide a Judge under the age of 60 years with greater flexibility in respect of his or her future options.

The Bill specifically seeks to provide for the preservation of a pension entitlement where a Judge resigns before attaining the age of 60 years, having had not less than 15 years judicial service. The preserved pension entitlement is 60 per cent of the judicial salary payable at the date of resignation, indexed by the Consumer Price Index, and commences to be payable upon the attainment of age 60 years. The Bill also provides that where death or total and permanent invalidity occurs before the attainment of age 60 years, a benefit becomes payable to a spouse and any eligible children, or the former Judge as the case requires.

The Chief Justice has been consulted in relation to these amendments and fully supports the provisions contained in the Bill.

I commend this Bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 4—Interpretation

Clause 2 amends section 4 which is the interpretive provision of the principal Act. The change made by paragraph (c) to the definition of 'notional pension' is required to ensure that the spouse or eligible child of a deceased Judge who had a preserved pension receives a pension or child benefit under the principal Act.

The amount of the notional pension is 60 per cent of the Judge's salary before resignation adjusted for CPI increases to the date of payment of the spouse pension or child benefit. This amount is then subject to adjustment under section 14A in relation to child benefits to ensure that those benefits receive cost of living increases.

Clause 3: Insertion of s. 6A

Clause 3 inserts new section 6A into the principal Act which provides for the preservation of a pension for a Judge who resigns before reaching 60 and who has 15 years service.

Mr ATKINSON (Spence): Fortunately, Opposition members are speed readers and are able respond to this Bill immediately. We have studied the principle carefully and taken advice. We are sceptical of changes to our law just to cover one case. However, we are persuaded that it is only just that a judge's pension be preserved to be paid from age 60 even though he or she might retire voluntarily before the age of 60. The Opposition supports the Bill, but there is one question that I would like to ask in the Committee stage.

Mr HANNA (Mitchell): Members on this side would be rightly sceptical of legislation that is passed to address a specific situation when, in fact, it is going to be of general application. It might not be of so much concern except that, if the second reading explanation (which I understand has been inserted in *Hansard*) is the same as the remarks made by the Attorney in another place, it specifically speaks of the provision giving judges an entitlement to a pension at lower than age 60 as being a general aim of the Bill when, in fact, it would be more honest to say that it was a specific aim of the Bill to make allowance for a particular case that has come up.

I do not think that there is any need to refer to the judge concerned, but suffice to say that, in general terms, where judges are appointed fairly young in terms of the legal profession, this sort of problem can come up. We have a situation at the moment where there is a judge under 60 and, as I understand it, it is the intention of the Government that that judge should be able to retire and have a pension entitlement—not to be paid now, but to be paid when he turns 60. It should be placed on record that there is nothing particularly sinister about the Bill.

We would be more concerned if entitlements, whether for judges or for any other kind of workers, were being diminished to fix (or worse) a particular case, but in this case I am satisfied that the circumstances of the judge concerned *vis-à-vis* the Government and the court are in order. I do not want to hold up the passage of the Bill any longer, but I think those general remarks should be placed on the record.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I thank members of the Opposition for their contributions. Whilst the member for Mitchell identifies that there is a particular instance at the moment, which is acknowledged, I guess it is fair to say that the Bill would be a general one were the situation to arise again, and I think it is more appropriate, as this case has arisen, to legislate for other cases that arise in the future. I thank members of the Opposition for their support.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3.

Mr ATKINSON: Is the period of leave of absence from a court counted towards the 15 year's service required from a judge to obtain a judge's pension?

The Hon. M.H. ARMITAGE: I may have to answer that later, but clearly the term of 15 years applies, as is clear from clause 3, to judicial service. It is not service to the court but judicial service. Just as employees in a general situation might work for 15 years for David Jones or Myers, that includes holiday pay etc., so I would imagine that it is years of service to the judiciary rather than time actually spent in the court.

Mr ATKINSON: Does the Minister mean service on the judiciary in South Australia or some other jurisdiction? Would service as a judge in another jurisdiction count towards the 15 years?

The Hon. M.H. ARMITAGE: I am not quite sure of the intent of the honourable member's question. The reason I am having difficulty is that, if someone has judicial service in another State, they will not accrue a pension contribution from South Australia during that service. If the member for Spence is asking whether we will contribute a huge bonanza to someone who has worked for 10 years as a judge in another State before coming here, the answer is 'No', because the pension contribution from South Australia is only for the time that the judge worked in South Australia.

Mr ATKINSON: Is the Minister saying that, in order to obtain a pension under the parent Act, a judge would have to serve 15 years as a justice in a court in the State of South Australia, or could that judge serve fewer than 15 years in South Australia but serve a number of years in another jurisdiction, perhaps in another Commonwealth country, and thereby gain 15 years and be entitled to a South Australian judge's pension?

The Hon. M.H. ARMITAGE: I am happy to obtain further advice for the member for Spence in relation to that, but I emphasise that the South Australian Government has no intention of making a contribution to the superannuation or pension of a judge who serves in another State or another country, as the member for Spence has raised most latterly.

Mr HANNA: I refer to the wording of subsection (i), where it speaks of a judge who resigns before reaching the age of 60 years, and that judge is not entitled to a pension immediately but becomes entitled to a pension under certain circumstances. I query why it is worded that way, that there is not an entitlement to a pension immediately. My common-sense tells me that an entitlement does arise but it is to a pension which is not payable until the criteria in (a) or (b) are met. It may not matter except perhaps in the case of a judge who dies, having resigned before reaching 60 years of age, and who is not incapacitated before reaching 60. What happens to the entitlements of the spouse of a judge in that situation? I know that the Minister has given careful consideration to the point I have made and I look forward to his advice.

The Hon. M.H. ARMITAGE: The member for Mitchell is absolutely correct in that, if a judge whose judicial service is of 15 years or more and he or she resigns before turning 60, he or she will not become entitled to a pension until those particular conditions have been satisfied, and that is no different from a large number of other pension or superannuation entitlements in other contexts.

Mr HANNA: Perhaps the Minister did not listen to the crucial point of what I was asking. What happens to the spouse of a judge who would otherwise be entitled to something if the judge retires before 60 but dies before reaching 60 without having become incapacitated? In other words, the criteria in (a) or (b) may not be met, yet the judge becomes a former judge.

The Hon. M.H. ARMITAGE: It is my belief that in that circumstance the judge does not become entitled to the payment of the pension until he or she would have turned 60, and I do not think that that alters the fact that, if he or she dies prior to that age, the spouse would not be entitled to that payment—just as if the person had taken the pension at 60, that would have been part of the estate.

Mr HANNA: We are getting to the crucial point here. Is the Minister saying in his words of reassurance for the spouses of judges that in fact they will receive some entitlement when a judge would have turned 60 had the judge lived or, if a judge in these circumstances dies before the age of 60, is the Minister saying there will be zero entitlement for the spouse in that situation?

The Hon. M.H. ARMITAGE: There is nothing in the Bill that would see this entitlement treated in any way differently from any other such payment, and clearly, if someone has taken a large lump sum at the age of 60 and then dies at the age of 61, that sum is—

Mr Hanna interjecting:

The Hon. M.H. ARMITAGE: I understand that, but I have identified that. If the person is not eligible for the payment of that, that is unfortunate, but there is nothing in the Bill which indicates any different treatment of it from the present situation.

Mr McEWEN: The member for Mitchell makes a particularly important point in that the entitlement is immediate, although the benefit is in the future. I am not convinced that the question has been satisfactorily answered, particularly the point in relation to a third party benefiting, should

something happen to the person who has earned the entitlement, should that person be deceased between the time they earned the entitlement and the time they reached 60 years when that entitlement accrues for the first time of benefit. It is my understanding from a briefing on the matter that, should something happen to the incumbent between the time they retire and the time they turn 60 years, the benefit would accrue to the third party, so the matter needs to be clarified.

The Hon. M.H. ARMITAGE: I can clarify it. It is no different from the provision in the legislation. New section 6A(3) provides:

The spouse and eligible child or children (if any) of a former judge referred to in subsection (1) who has died are entitled to a pension or a child benefit (as the case requires) in accordance with the relevant provisions of this Act.

It is actually covered in the Act.

Clause passed.

Title passed.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I move:

That this Bill be now read a third time.

Mr ATKINSON (Spence): The Opposition is somewhat disappointed that the Minister was unable to answer our questions. The situation would have been improved had the Minister had with him an adviser from the Attorney-General's Department. It is not entirely satisfactory that the Opposition acquiesces in legislation when its questions on that legislation cannot be answered by the Minister. But, since we are tolerant, easy-going people, we will let it go this time.

Bill read a third time and passed.

STAMP DUTIES (SHARE BUY-BACKS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 28 October. Page 39.)

Ms HURLEY (Deputy Leader of the Opposition): This Bill relates to a court decision regarding a company that bought back shares. We are advised that this does not change the existing situation but merely regularises the situation regarding the stamp duty on share buy-back purchases. Therefore, I have no problem with this and believe that the companies involved in such schemes should be liable for the correct amount of stamp duty. I support the Government in this minor change to the legislation.

Mr FOLEY (Hart): I join with the Deputy Leader and thank her for stepping into the breach and giving a very succinct summary of the Bill. No doubt the Deputy Leader was able to explain more than adequately the thrust of the Bill but, because I like repetition, I will do the same. Following the case of *Coles Myer v the Commissioner of State Revenue* in Victoria, where Coles Myer took the issue to the Supreme Court believing that it was not liable for payment of duty on its share buy-back scheme and won the case, we in this State are taking appropriate action to ensure that that loophole is closed.

There is a trend, it would appear, that share buy-backs by major corporations in Australia are undertaken from time to time to shore up company structure. We share the Government's view that, should that occur, those transactions should be treated as any other share transaction and be subject to

duty. We support the Government in this measure and in so doing indicate that we are happy for the Bill to proceed to the third reading.

The Hon. M.R. BUCKBY (Minister for Education, Children's Services and Training): I thank members opposite for their support of this Bill and for their contributions. They have summarised the measure well and there is no sense in my delaying the House further.

Bill read a second time and taken through its remaining stages.

STATUTES AMENDMENT (MINING ADMINISTRATION) BILL

Adjourned debate on second reading.
(Continued from 28 October. Page 39.)

Ms HURLEY (Deputy Leader of the Opposition): This Bill, as described in the second reading explanation, tidies up a number of administrative arrangements regarding both pieces of legislation and is a result of the review. Probably the most notable change is linked with the introduction of the Mining (Native Title) Register. The Bill provides for the agreements to be nominated as confidential by one of the parties in case of commercial considerations or for other reasons if the parties concerned would like to keep it confidential. Otherwise, the conditions will be publicly available in the Mining (Native Title) Register.

We have been advised that this has been put out for consultation with interested parties. I have consulted with the Native Title Unit and understand that there are no objections to that provision being put in place. Indeed, the rest of the provisions relate mainly to fees and charges by Primary Industries and Resources SA, and those charges seem eminently reasonable and fair to the Opposition. There is no reason why the Government should subsidise people who apply for exploration or mining licences, and it seems reasonable that fees be charged in accordance with the costs of the department. So, given that set of circumstances, the Opposition is able to support this Bill. We will ask a couple of minor questions during the Committee stage, but we see no reason at this stage to oppose these changes.

Mr HANNA (Mitchell): When the confidentiality provisions were brought to my attention I had some misgivings, because I could see that in the commercial context—and, ultimately, native title claims are being fought out and dealt with in the commercial context—mining companies in particular would be very interested in keeping secret and separate the deals that they have made with particular native title groups from the deals they have made with other groups or from groups with whom they are still negotiating—just as a real estate agent might try to deal with two or three potential buyers of a property at the same time and obviously want to keep those negotiations distinct and confidential *vis-a-vis* each other.

Therefore, I was concerned that where mining companies have a fair bit of clout—and they certainly do in terms of the resources they can bring to deal with native title claims compared with those who declare that they have native title in a particular piece of land—they might use this provision to facilitate an undercutting process between different native title groups, even those who might be negotiating in respect of much the same area. However, I accept, as the Deputy

Leader has said, that the Australian Legal Rights Movement has been consulted in relation to this Bill. I can also see that it may be in the interests of Aboriginal groups to have their particular requirements in terms of native title rights kept confidential, because they might involve sacred matters and so on. So, I can see that there could be benefits from the Aboriginal point of view as well. On that basis I will certainly not object to what is there, and no other objections have been brought to my attention.

Mr LEWIS (Hammond): Members know of my interest in the mining industry—and this is in my pecuniary interests. During the course of grievance debates in the last session I have also drawn attention to the crazy situation that now prevails where, if an exploration licence is granted over an area of the State of South Australia in which it appears a reasonable sum of money will be spent by way of exploration work, a native title claim can be lodged across that piece of land with no other intention whatever except to screw the mining company which has submitted the application and which has been granted the exploration licence.

The case in point is almost the entire electorate of Hammond. All the area to the east of the river and extending north of the river through the electorate of Chaffey is the subject of an exploration licence granted to a company whose principal target is mineral sands. There are millions of tonnes of mineral sands in the mallee; in fact, the stupidity—

Mr Hanna: How do you know it is not a valid claim?

Mr LEWIS: Because the claims boundaries precisely and in every minute detail—down to the punctuation marks—copy the description of the exploration licence area. It is deliberate as a means of screwing the mining company for money before it can do its exploration—no other question about it. That has been admitted by the people in the Aboriginal community to whom I have spoken.

Mr Hanna: Who?

Mr LEWIS: That is not something I am prepared to disclose, for the same reasons as this legislation seeks to make and keep secret the arrangements that will be entered into. I think that my right to retain secrecy about the source of my information in discussion with the Aboriginal community as a member of this place is part of parliamentary privilege, whereas I do not see at all any reason why the arrangements to be made as countenanced under clause 10 and elsewhere earlier in the Bill ought to be kept secret. After all, in my judgment they are in the public interest. I do not see that the reasons given in the second reading explanation are in any way valid, wherein it has been explained that the parties to such mining native title agreements may not want the terms of the agreement made public as they may contain private commercial dealings which could set unnecessary precedents.

It is not as if the native title proponents, once given and obtaining benefits, contribute anything at all to the process. It is only commercial in the context that the company is being bled. That is the only commercial aspect of it. No service is provided whatever. There is no necessity whatever for the native title claim to be even valid. As long as it is lodged, it must be dealt with. You must negotiate if you want to go on and, if you do not negotiate, the registrar may not grant you the EL in 12 months. So, you are in a no-win situation. You must raise more money and try to negotiate with someone whose claim may be completely specious, unfounded or unwarranted. There is no test of that.

There is no establishment of the fact that native title is required, just that the claim is lodged. You then must pay. You must negotiate with the claimant whatever it is you think you can get the claimant to accept as a payment to be allowed to continue.

Mr Hanna interjecting:

Mr LEWIS: But for what purpose? No liability has been established. The member for Mitchell fails to understand that there can be five claims from five separate parties on exactly the same piece of land on which the minerals reside. You must deal with all of them and you must satisfy all of them before you can go on with it or you risk losing your land.

Mr Hanna: And they are not contradictory.

Mr LEWIS: They may, indeed, be contradictory. The circumstance can obtain where only one of them ultimately will be valid, but you have paid \$2 million for the other four, as well as the one.

Mr Hanna interjecting:

Mr LEWIS: And it may well be. I am telling you, Mr Speaker, and other members in this Chamber that I find the propositions as they stand pretty offensive because of what they will do to the mining interests and the development of mining industries in South Australia from this point forward. I cannot for the life of me understand why it is necessary to keep such agreements secret. There is nothing sacred about them. No money formed part of Aboriginal culture—none. This is simply providing the means by which mining companies can be bled before anything can be done. So, where do we suppose the exploration dollars will go?

Mr Hanna: Guess who has been bleeding for the past 200 years?

Mr LEWIS: That is not at question. What is at question now is whether or not this legislation is sensible. I do question equally, but not appropriately in this context because it is not part of this legislation, the wisdom of allowing in law, as has been allowed through the Commonwealth Parliament, any number of claims to be stacked up on the same piece of land on which there might be minerals, and there is no necessity whatever to prove validity. There is a requirement, however, in law to deal with all of them before you are allowed to go on and do any further exploration or mineral development on the said land.

And for it now to be a requirement that the people involved in the industry may not know what has been agreed in settling those matters makes it extremely difficult to determine what is fair and reasonable. What will on the other side occur, though, is that those claimants will look at the company's capacity to pay. They can do that just by looking up the company's ACN number and balance sheet in the annual report which the company must file with the Australian Securities Commission. They will know what the company's assets are, so they can screw the company for as much as they can get and it does not have to be in any way comparable with an identical mineral prospect nearby or elsewhere—just another identical mineral prospect. There does not have to be any similarity in that whatsoever. Just go for what you can get and grab it. That is what I do not like about it. I think altogether then—

Mr Hanna interjecting:

Mr LEWIS: I gave an example during the last session. It now looks as though we will stall development of mineral sands in the Mallee in consequence of the claim that has been lodged over the exploration licence area there, until the claim that has been made right across all the land is satisfied. That saddens me.

Other aspects of the Bill concern me, but I will not delay the House with my concerns of them; rather, I will seek to take them up through other forums. However, it is particularly this one that has worried more people who are interested in developing the State's economy through the natural resources than any other aspect of the legislation that we have before us.

Mr CLARKE (Ross Smith): I want to comment a little on what the member for Hammond had to say. It strikes me as somewhat extraordinary that he is saying that mining companies are being held to ransom because there are X number of native claimants to a particular piece of land on which they want to explore; some of these may be valid and others may not be. Those who lodge their claims may genuinely believe that they are entitled to be native title holders. The mere fact that if it goes to court or, through further investigation, they are found not to have valid claims and they fall by the wayside does not negate their rights with respect to the claims they make or their belief that they are entitled to be treated as native title holders to the land.

Indeed, the mining company is under no pressure, other than that it might want to get the claim up and under way as quickly as possible, but it is not obliged, as the member for Hammond would seem to suggest in his speech, to go to anyone who makes a claim for native title and say, 'Even if I do not believe that you have a legitimate claim, I will pay you X dollars to go away.' Some mining companies may choose to do that as a business proposition; I would not support their doing that because that only encourages further spurious claims being made. However, that should not stop native title claimants from putting up their arm if they believe they have a right. At the end of the day, it is like any other claim for property ownership that we have in European culture on anything else. I might seek claim to the member for Hammond's house and he may choose to pay me off or, alternatively, he may choose to say, 'Prove your claim and take me to court,' and I will put to the test as to whether or not my claim is legitimate. And it is no different with respect to Aboriginal communities.

I therefore fail to understand the attack that the member for Hammond makes because, at the end of the day, the mining company does not have to agree to pay off these people if it chooses not to. It may say to those claimants, 'Under the Act you must prove that you are, indeed, native title holders and, if your claim is valid, we will enter into final negotiations.' I understand part of what the member for Hammond is saying, that is, that there may be a delay in the development process, but if we look at a whole range of things that are happening in this State in any event, and for reasons which we regard as perfectly acceptable, in the sense that we own a house and a commercial developer might want to put a 10 storey home or a commercial building next to us, we see that under our Planning Act a number of appeal mechanisms and various other mechanisms are available to us to enable us to establish our rights. True, that may well hold up the development, but we as a community and through this Parliament have passed legislation to enable people to seek to protect what they see as their rights and for an independent umpire through the relevant tribunal to establish what one's rights are.

The member for Hammond's remarks are a little rich, even though he has a particular interest in the mining industry. I am supportive of the mining industry in terms of what it can do for this State. At the same time, however, I am not

prepared to say that people who believe that they have rights to that land can simply be disregarded.

In the previous Parliament, we debated at considerable length native title legislation that was introduced by the Attorney-General to establish a State regime in this area. It was very painstaking and much work went into it, and eventually a compromise was reached between both Parties with respect to what our State legislation should be. However, at the end of day, there was the recognition that people had the right to say that they have a claim and that, ultimately, and if necessary, they are prepared to prove the validity of their claim.

I accept that it does hold up development. There may be ways of trying to improve those processes to speed the matter along, but we cannot say to the Aboriginal community that we can dispense with their claims because we think some of them are spurious, yet when it comes to planning and development laws and things of that nature for our own European culture we put in a whole range of safety mechanisms for the rights of those citizens. That is where I draw the line and beg to differ with the member for Hammond.

The Hon. R.G. KERIN (Deputy Premier): I move:

That the time for moving the adjournment of the House be extended beyond 10 p.m.

Motion carried.

The Hon. R.G. KERIN (Deputy Premier): I thank members for their contribution. Obviously, as the Deputy Leader of the Opposition has identified, this Bill includes quite a few issues relating to cost recovery and ensuring that industry pays for what it incurs, and I thank her for her concurrence in that respect.

The member for Mitchell spoke about native title and the confidentiality involved with that process. In relation to the member for Hammond, I certainly do not wish this evening to debate the merits of native title. I make the point that, having been party to some of the arrangements that have been made between the mining companies and native title claimants, one does gain a greater understanding of why either party, or indeed both parties, would want to keep them confidential.

I appreciate that the member for Mitchell has taken on board the fact that native title claimants have basically agreed to this legislation. I say to the member for Hammond that we have undertaken quite a bit of consultation with the mining industry and, once again, that industry can see that there is some need for confidentiality. In their case they feel that, if it all becomes public, a bidding war could develop and it might even cause a flaw in the native title agreement. Certainly, that provision has received very good support from the mining community. I thank the member for Ross Smith for his contribution as indeed I thank all members for their contribution and support.

Bill read a second time.

In Committee.

Clauses 1 to 6 passed.

Clause 7.

Ms HURLEY: The explanation of clause 7 states that this amendment will make it clear that a mining lease can be granted to the holder of a retention lease. Will the Minister explain that provision and say whether that might make it easier for a mining company to be granted a mining lease, particularly with respect to overcoming any native title claims?

The Hon. R.G. KERIN: In the first case, yes, it will be somewhat streamlined, but it is a separate issue from native title. My belief is that it will remove something of an anomaly, but it is a separate issue from native title. In South Australia the laws are quite clear that native title must be treated separately.

Clause passed.

Clause 8.

Mr CLARKE: Somewhat akin to the member for Mitchell, I must say I am little concerned about agreements being confidential, even if both parties are required to give their confidentiality, in circumstances where a mining company could say to Aboriginal claimants, 'We will come to this deal but part of the deal is that it must be confidential.' It seems to me that there is a public interest in not only mining companies but also the general community's knowing what might be the going rate for settlements around the place. In my former capacity as a union official I never liked the idea of enterprise or industrial agreements not being on the public record, because one might like to know what is the going rate. Is someone assenting to an agreement which is less than you think is a fair deal? Or, if a good industrial agreement with good conditions has been arranged, you might want to try to lever yourself up with respect to the next agreement that you are negotiating.

I would have thought that this was a bit of free enterprise which this Government would support, in letting the market be fully informed of all the developments that are taking place and what the going rates may be so that, when a mining company and Aboriginal titleholders enter into an arrangement that reflects fairly on both sides, they know what community standards might be in a particular State or region. I understand that the Aboriginal groups also see some advantage in this. I frankly fail to see what advantages are provided, but I am prepared to accept their word for it. I can understand the advantage to the mining companies, which might make a nice agreement, pay a certain amount of money and wrap it up quickly but do not want a group 200 kilometres north to know the deal that they have done, because it might be possible to do a slightly better or cheaper deal, or whatever it might be.

I do not necessarily blame the mining companies for that because they are in it for a quid: I understand that. We are in an era of competition principles, openness and transparency, and all the jargon that the Premier gives us with respect to national competition policies and the like should also apply in this area, so that everyone knows what is going on in the marketplace. When buying shares, a fundamental principle is that insider trading is not allowed. It must all be above board and everyone allegedly knows what the state of play is.

Mr Koutsantonis: He wants the market to prevail.

Mr CLARKE: I am wearing a strange hat as a free marketer on this occasion. What are the advantages to claimants in having information kept confidential so that other Aboriginal groups, perhaps even members of the same tribe elsewhere, do not know what their colleagues have managed to obtain by negotiation? I cannot see what those advantages are, and I would be happy for the Minister to explain them to me.

The Hon. R.G. KERIN: I thank the capitalist member for Ross Smith for his questions. As I said before, having seen some of these agreements, I have a greater understanding, but I am not going to talk about them publicly. One thing that needs to be realised is that these are commercial agreements,

not industrial agreements. They are agreements between two parties which are not stringent under any award or industrial system, so that is a major difference to start with.

As to the advantage to Aboriginal groups, that is clear from a couple of the agreements that I have seen, but again I will not go into the detail. However, I will point two things out. First, because of this measure, in a lot of cases where a mining company wants to get on with it and the Aboriginal group is willing to settle, if it can be confidential, agreement will be reached more quickly, which will be to the advantage of both parties. Further, if a mining company is particularly anxious to settle native title and it knows that it will be confidential, it is likely to give the Aboriginal group a better deal than if it knows it will become public and it has to worry about successive deals.

It will be quicker and, if it is confidential and the company wants to settle quickly, it may offer more to the Aboriginal group. That is to the advantage of the Aboriginal group. Mining companies will not offer that unless they see some advantage in offering it. By being able to keep it confidential, each case will be treated on its merit as to what the Aboriginal group is willing to settle for, and the mining company will be able to make a commercial decision on what it will offer to get on with it. If the details are made public, all the exterior influences, such as companies being scared of creating a precedent, will stop companies from making an offer, and that will stop Aboriginal groups from being able to settle. That will hold up mining, companies will not be able to get on with the job and, at the end of the day, the native title claimants will be offered lesser settlements.

Mr CLARKE: I am not totally convinced by the Minister's answer. In my industrial days, when Malcolm Fraser was Prime Minister, I recall changes being made to the Industrial Relations Act. Industrial agreements were entered into between the two parties, and both parties, employers and unions, were happy with the agreements. However, because those agreements might have set greater salary levels than the Federal Government of the day thought were fair and reasonable and because they could be certified without any intervention by the Federal Government, the Act was changed by Fraser to ensure that any agreement had to pass a public interest test in so far as the state of the economy, the state of inflation, the state of unemployment and so forth were concerned. The Minister for Industrial Relations could intervene to state a case as far as the public interest was concerned.

I understand in part what the Minister is saying, but there does not seem to be a public interest test either in terms of confidentiality or respective bargaining powers between the mining companies saying, 'I will settle quickly with you people but only if you make it confidential.' Those claimants may think, 'Okay, we get a quick settlement.' The fact is that, by making it confidential and keeping it under wraps, they may disadvantage other members of the community elsewhere in terms of the negotiations with that mining company or a similar company engaged in similar activities. Frankly, it seems that, if a mining company is approaching its negotiations with Aboriginal claimants, if it is doing it on a *bona fide* basis and approaching it with clean hands, whatever

deal they are prepared to strike is the best deal they are prepared to strike at that time.

If there are issues of sacred sites and various other things which the Aboriginal community would prefer not to be in the public domain, this Bill could be amended to exclude those types of things from being in the public domain but, in terms of royalties or agreements with respect to employment opportunities for Aboriginal people and the like, I would not have thought it would have been contrary to the public interest for that to be public. If a mining company struck a good deal, as a number of them have done, they would be only too proud—and rightly so—praising it to the rooftops and organising journalists to fly in and record the signing of the agreements to show how things can be done.

The Hon. R.G. KERIN: There is not a lot to answer because there was much comment. One thing was clear: old industrial habits die hard. It comes down to the two parties who have the choice to settle or not settle. It relates to the offer made. Aboriginal heritage started to creep in and it is a separate issue. In response to the other point, no, Malcolm Fraser is not coming back.

Mr KOUTSANTONIS: That's right, Minister, Malcolm Fraser will not be coming back, thank God.

Mr Clarke interjecting:

Mr KOUTSANTONIS: He is a bit too reactionary for him. In terms of the confidentiality of the two parties making agreement, is there a penalty in place if one of the two parties breaks that confidentiality agreement? I am concerned that one of the two parties could be playing off the parties against each other. As the member for Hammond mentioned earlier, there could be four or five native title claims on a certain site. One could reach an agreement with the mining company and the company ask that the settlement be kept confidential, but are there any penalties facing the party disclosing the settlement to another party involved in a native title claim on the same site, to try to play it off against the mining company? The example could be, 'We have got this much, you should too.' Therefore, is there any protection for the mining companies?

The Hon. R.G. KERIN: Normally agreements are done largely as joint settlements involving all the native title claimants. That is how most agreements in South Australia occur but obviously not in all cases. I refer to clause 8, new subsection (7), which provides:

A person who contravenes or fails to comply with a condition is guilty of an offence. Penalty: \$10 000.

No doubt there would be cases where that would be hard to police but, if the agreement is confidential, that is the way it needs to be and I suppose that applies whether we are talking about two claimants for the same project or whether we are talking across the board. If it is part of the agreement, any contravention would attract the possibility of a penalty.

Clause passed.

Remaining clauses (9 to 11) and title passed.

Bill read a third time and passed.

ADJOURNMENT

At 10.16 p.m. the House adjourned until Thursday 5 November at 10.30 a.m.