LEGISLATIVE COUNCIL

Thursday 22 August 2002

The PRESIDENT (Hon. R.R. Roberts) took the chair at 11 a.m. and read prayers.

SUSPENSION OF STANDING ORDERS

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

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

Motion carried.

EVIDENCE ACT, SECTION 69A

Adjourned debate on motion of Hon. Nick Xenophon:

That this council requests that the Legislative Review Committee inquire into and report on the operation of section 69A of the Evidence Act 1929, and, in particular, the effect of the publication of names of accused persons on them and their families who are subsequently not convicted or not found guilty of any criminal or other offence.

(Continued from 10 July. Page 445.)

The Hon. CARMEL ZOLLO: Last year, on behalf of the opposition, I indicated support for this motion. I do so now on behalf of the government. Section 69A(1) of the Evidence Act primarily deals with suppression orders. The motion asks the Legislative Review Committee to look at the operation of the act and, essentially, whether the media—and, hence, the community—should be informed of the identity of people accused of crimes and the right of the public to know, balanced against the impact on the accused and family members of the accused, bearing in mind that the accused may not be convicted or found guilty.

The issue before us is as a result of the campaign of Mr Peter McKeon, who wrote to and approached most members of parliament in the last parliament. The Hon. Nick Xenophon described Mr McKeon's campaign as 'active citizenship' and took up his cause. If it is the will of this chamber, as chair of the Legislative Review Committee, I am certain that the committee will approach this inquiry with due diligence and a fresh and open mind. This issue is of great interest to many people. The right of the community to know and the consideration of injustices that could occur to innocent parties is, of course, a balance. The committee did not get the opportunity in the last parliament to actually commence the inquiry, but I understand that the secretary did undertake some preliminary work for an inquiry to commence—and, of course, the new committee can now continue with that. I support the motion.

The Hon. IAN GILFILLAN: I indicate the Democrats' support for this motion. It is not a prejudgment on what should or should not come from the Legislative Review Committee's inquiry. I sit on the committee and I have confidence in its capacity to have an objective inquiry into the matter and bring back to this council, and the parliament generally, a useful and informed report. At times it has concerned me that the media, either intemperately or injudiciously, has caused people in the community extraordinarily painful embarrassment, particularly those who at times are either detached from or quite innocent of offences that are publicised. However, leaving that discussion to the work of the committee, I indicate Democrats' support for the motion.

The Hon. NICK XENOPHON: I thank members for their contributions. This matter was dealt with, to an extent, last year in this chamber. I believe it is a worthwhile inquiry. I note the bipartisan support. This is a matter that the Legislative Review Committee ought to consider. It is a matter of topicality, in a sense, and I believe that the sooner the Legislative Review Committee looks at this issue the better. Again, I praise the efforts of a private citizen, Mr Peter McKeon, in pushing for this matter to be looked at with a view to a review of the current laws in relation to the suppression of evidence.

Motion carried.

HOUSING TRUST

Adjourned debate on motion of Hon. Nick Xenophon:

That this council requests that the Statutory Authorities Review Committee inquire into the following:

1. The policies and practices of the Housing Trust of South Australia in relation to—
   (a) dealing with difficult and disruptive tenants; and
   (b) protecting the rights of the Housing Trust tenants and residents to the peaceful and quiet enjoyment of their homes and neighbourhoods.
2. Reforms to Housing Trust policies and practices of dealing with difficult and disruptive tenants to ensure the basic needs of neighbouring tenants and residents to the peaceful and quiet enjoyment of their homes and neighbourhoods.

to which the Hon. R.K. Sneath has moved the following amendments:

Preamble

Leave out the words 'That this council requests that the Statutory Authorities Review committee inquire into the following:' and insert 'That this council requests that the Social Development Committee inquire into the following:'

Paragraph 1

Leave out the words 'Housing Trust of South Australia' and insert 'tribunals covered by the Residential Tenancies Act 1995'.

Leave out the words 'Housing Trust in subparagraph (b).

Paragraph 2

Leave out the words 'Housing Trust'.

(Continued from 17 July. Page 562.)

The Hon. SANDRA KANCK: I indicate that the Democrats will be supporting this motion, but we will not be supporting the Hon. Mr Sneath's amendment either to alter it or refer it to the Social Development Committee. I note that the Social Development Committee is undertaking a reference on poverty at the moment. This chamber has already referred two other matters to it to deal with. There is quite a queue of matters, which I believe are significant issues, before the Social Development Committee at the moment. Having been on that committee, I cannot see that it could get around to doing the Housing Trust issue probably for another 12 months, given what is there, unless something remarkable has happened to that committee since the last parliament.

I have pursued this matter of the Housing Trust, particularly the mix of tenants, for quite some time. I raised it via the Messenger press in early 2000. I also tabled petitions in this parliament in that year about the mix of Housing Trust tenants. I would like to read an article which appeared in the local Messenger at that time, which gives an indication of some of the problems. The article is simply about Stow Court, which is just one place where Housing Trust tenants are housed, and it states:

Elderly residents living in the Housing Trust complex Stow Court are being terrorised by violent, mentally ill tenants, according to one resident. The woman, who has lived at Stow Court for 26 years, refused to be named for fear of retribution. She said residents had been terrified by a number of incidents which had occurred at the 106-unit complex over the past year, including:

- a tenant was assaulted by another mentally ill tenant;
- a former Glenside patient tried to commit suicide in the communal laundry;
- washing on a clothesline was set on fire, believed to be an act of revenge;
- a man was found masturbating in the communal laundry;
- tenants were verbally abused and threatened if they asked other tenants not to park on lawns, footpaths and blind corners;
- police were called 15 times to deal with a verbally abusive tenant who spat in the face of another tenant; and
- a peeping Tom was seen looking through the window of a female tenant's flat.

The woman said tenants with mental and physical health problems did not have adequate support and care at Stow Court. 'Most South Australian Housing Trust tenants are not skilled in psychiatric counselling, the management of violent people and tenants out of their minds on drugs and/or alcohol,' she said. 'I know of seven decent, law-abiding tenants who have moved from their flats within a three to four year period because of the problems they have experienced at the complex.' She accused the Housing Trust of failing to act on complaints against difficult and disruptive tenants. 'The welfare of tenants is not the concern of the trust,' she said.

The Housing Trust General Manager at the time, Greg Black, denied that this was the case, and certainly the stirring that was undertaken at that time produced, I think, a more up-front approach by the Housing Trust, which produced a newsletter very shortly after this that was entitled 'Stow Court: making it even better'. It appointed a new housing manager for Stow Court and Barwell, which is a similar complex not all that far from there. That housing manager made herself available each Tuesday morning in the community room from 9.30 a.m. to 12 p.m., which I think was a step forward, but I continued to receive complaints about that Housing Trust complex.

The problem certainly seems to be that there are urgent, pressing needs, in a complex of that size (particularly with the shortage of Housing Trust accommodation and the long waiting lists) for people to receive housing. We have people who have been deinstitutionalised from mental institutions looking for accommodation; we have students looking for accommodation; we have women who are fleeing domestic violence trying to be settled in places such as this; we have elderly people; and we have people who have lived there, in some cases, for 25 years. When one puts a mix like that together, it simply does not work. The Housing Trust, I know, is walking a tightrope because of the pressures that it is under to provide the housing. When you have a 106-unit complex such as Stow Court, you very much need to put someone wherever there is a vacancy, given the length of the waiting list.

I consider that this motion is very much needed to look at issues such as the mix of tenants and to look at the larger issue of how government is dealing with the pressures that it is under to provide emergency and crisis accommodation, because this certainly is a driver in the issue of the mix of tenants. I think it is a greatly needed reference, and I believe that the Statutory Authorities Review Committee is the appropriate body to look at this matter. I look forward to the response from the Statutory Authorities Review Committee.

The Hon. A.L. EVANS: I am finding in this place, as I listen to either side, that they both sound very convincing. So, it is quite a job for me to have to work my way through which way to go with respect to some of these bills. This matter is of considerable concern to me. I have dealt with these kinds of issues quite a bit on a personal level and, because it is a fairly narrow focus and we could achieve a result reasonably quickly, I think I would prefer the matter to go to the Statutory Authority Review Committee.

The Hon. NICK XENOPHON: I thank honourable members for their contribution. I do not support the amendment moved by the Hon. Bob Sneath that would seek to refer this matter to the Social Development Committee. It is my view that most complaints seem to relate to the Housing Trust, and to refer this matter to the Social Development Committee would mean that there would be a considerable delay. As I understand it, the Social Development Committee would not be able to deal with this matter until at least some time in the middle of next year. My belief is that the Statutory Authorities Review Committee would be able to begin to deal with this matter in a matter of several weeks, or one or two months. In relation to the concerns raised by government members with respect to private tenants, if the Statutory Authorities Review Committee deals with this matter, it can do so expeditiously. It can hand down a report, hopefully, in a matter of several months.

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: Yes. I would have thought that it is then up to the Social Development Committee to pick up those matters in relation to private tenants if there are any outstanding issues. I believe that the Statutory Authorities Review Committee can deal with this in a very substantive way. It can deal with most, if not all, of the issues that have been raised, because the vast majority of complaints relate to Housing Trust matters. The Hon. Sandra Kanck makes a very good point that this is also about how the government deals with emergency accommodation; about the mix of tenants. That is where many of the problems seem to be and, like the Hon. Sandra Kanck, I have received correspondence in relation to Stow Court, where there have been problems.

In so far as there may be some matters that may need to be dealt with regarding private tenants, I believe that, in many respects, they could be covered in this inquiry by the Statutory Authorities Review Committee. If there are any outstanding issues, they would be quite confined, and that is something that the Social Development Committee could take up at a later time. I urge honourable members to support the motion in its original form and not to accept the amendment filed by the Hon. Bob Sneath.

The PRESIDENT: That concludes the debate. I propose to put the first of the Hon. Mr Sneath's three amendments to the committee. If that is lost, I will accept that the others are consequential and we will move to the next stage.

The Hon. R.K. Sneath's amendment negatived; motion carried.

CONSTITUTIONAL CONVENTION

The Hon. NICK XENOPHON: I move:

That this council calls on the government to appoint the Presiding Officer of the Legislative Council, the Hon. Ron Roberts, as a member of the members' steering committee to direct the organisation of the forthcoming Constitutional Convention.

Mr President, this motion arises out of a question asked of you by the Leader of the Opposition some two days ago in relation to a steering committee for the proposed Constitu-

tional Convention. At that stage, it seemed that the Presiding Officer of this chamber was not going to be part of that steering committee. I believe that the matters raised by the Leader of the Opposition were legitimate and valid, and that is why this motion was moved.

I make it clear that I support the Constitutional Convention that many would see as having been instigated initially by the honourable Speaker of the other place. I believe it will be a worthwhile exercise to look at a whole range of issues in terms of constitutional and parliamentary reform. However, not to have you, Mr President, as Presiding Officer of this chamber as part of that steering committee process which will play a very important role in determining the direction and scope of the convention seems to me to be an oversight. I understand that this is something that may well have been rectified, and I look forward to hearing from the government in relation to that.

Very simply, if the Constitutional Convention is to consider issues such as the powers of the upper house, the numbers of MPs—including MPs in this chamber—and methods of election for the upper house, for instance, it seems to me to be entirely appropriate that, if the Speaker of the other chamber is part of the steering committee process, the Presiding Officer of this chamber should be part of that, as well, so that there is a co-equal approach. Otherwise I believe there could be a perception in the community that the upper house has been sidelined. I am not suggesting that that is the intention, but I think it would be a very unfortunate perception.

There is not much more to say other than I commend the Leader of the Opposition for raising this issue in the parliament some two days ago. This motion is entirely appropriate, and I would like to think that in the spirit of bipartisanship there will be a resolution to this to ensure that, Mr President, as Presiding Officer you have a role to play in representing the interests of this chamber.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I wish to make a couple of comments to inform the chamber of the background of this matter. Of course, a parliamentary steering committee was established basically to guide the deliberations of the Constitutional Convention that is coming forward towards the end of this year. I hope that all members of this council will support the need for some re-evaluation of the constitutional provisions of this state. It is timely that we have a review of our constitution, and I certainly look forward to that process. Let me put on record that it has always been the intention of the government that there should be a member of the upper house on this committee. Indeed, when this matter was considered by caucus on several occasions, that was understood, and a member of the upper house was elected to be part of the parliamentary steering committee.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: It could have been the President. The important point is that the government recognised that a member of the upper house should be part of the delegation. It involved the Speaker, the Attorney-General and shadow attorney-general who is, of course, a member of the upper house, and there were two other members. Given that this matter has been raised both in this council and another place, I am pleased to advise that I understand the Attorney-General has contacted you, Mr President, and indicated that he will be writing to you shortly, inviting you to be a member of the parliamentary steering committee.

The committee is expressed in the motion as a members' steering committee. It probably more correctly should be referred to as a parliamentary steering committee, but I guess we all understand the body we are talking about. Mr President, I am pleased that you will be offered a place in your own right as President on this committee. I wish the committee well. It is important that this matter proceed in an orderly way, and I look forward to your contribution, the shadow attorney's contribution and, indeed, those of other members. I believe the Liberal opposition has two members, and I hope they will also provide a balance between the houses in their representation. With those words, I am pleased to clarify the position. I look forward to your contribution on this important committee, sir.

The Hon. R.I. LUCAS (Leader of the Opposition): Liberal members are never churlish in relation to these issues. Therefore, we welcome the new position. Some might uncharitably call it a backdown but, as I said, I do not wish to be churlish on these issues. We welcome the new position of the Labor government in relation to your office, Mr President—the office of the President of the Legislative Council—being an important part of the steering committee. I would hope that all members in this chamber believe that it is important that the Legislative Council is appropriately represented on this steering committee, because as other members have indicated—and you, too, Mr President have indicated this—it would appear that many of the suggestions for reform that are plying the minds of some who want to reform relate to the operations of the Legislative Council.

As I said in the explanation to the question, Liberal members welcome consideration of reform of the parliament as an institution. We do not believe that the Legislative Council in and of itself ought to be the pre-eminent focus. We ought to be a focus together with the House of Assembly and the overall operation of the parliament and, indeed, other issues such as citizen initiated referenda and others will obviously be raised as part of this potential Constitutional Convention agenda.

I am pleased at the new position. There did not appear to be much movement yesterday. Mr President, you might not be aware of this but in another place the Leader of the Opposition, in a spirit of bipartisanship, asked the Premier whether he would join him in inviting you to become a member of the steering committee. During question time yesterday there did not appear to be a willingness to join in that bipartisan push from the Leader of the Opposition. Wiser counsel has perhaps prevailed. It was clear that the Labor Party would not be able to defeat this motion in the Legislative Council. There was very strong support from all members other than members of the Labor Party for the motion, and it was clear that the six members of the Labor Party might have been placed in the somewhat embarrassing position of having to vote against one of its own in this motion today.

Again, we were not churlish in these things. This was meant to be voted on yesterday, but the Hon. Mr Xenophon agreed to defer this matter until today, and we were happy to agree to consider the motion today rather than yesterday to allow the Labor Party to manoeuvre itself into a new position. Whilst the Liberal Party is not churlish about these things, we are not naive or gullible. I certainly do not believe that there has been any misunderstanding or oversight in relation to the

office of the President: I think it was a deliberate and calculated move by the government in not wanting you, in particular, Mr President, and the office represented on the steering committee. So, as I said, while we are not churlish about these things, we are not naive or gullible—

The Hon. T.G. Roberts: Why?

The Hon. R.I. LUCAS: Well, that is the interesting question. The Hon. Terry Roberts asks why, and that is the question that I put to the Hon. Terry Roberts. Why did he not support the President to be a member of the steering committee? I think it is a pretty simple question. Anyway, if there is a simple answer, we would like to hear it quickly. We do not want to delay the motion today because it appears that everybody agrees to it. But, if the Hon. Terry Roberts has a quick answer, we would like to hear it. If he would like to confide privately as to why he and others did not support the President being on the steering committee, I would like to hear it. As always, the private discussions that we have will remain private between the Hon. Terry Roberts and me.

Mr President, Liberal members look forward to your contribution on the steering committee. You may not be aware, but if you look at *Hansard* you will see that the Leader of the Opposition, again in a spirit of bipartisanship, asked the Premier to join him to find out whether you and the other Presiding Officer might share joint responsibility for the staff and the resources for the Constitutional Convention. Having our President on the steering committee is a very important first step but, of course, there are teams of staff in the corridors of Parliament House working for the House of Assembly Speaker at the moment. I understand that they may be moving to more salubrious accommodation in the central business district within the next couple of weeks.

The Hon. Diana Laidlaw: Who will share the offices in the basement?

The Hon. R.I. LUCAS: I am not sure who will get their offices in the basement: you might like to look into that, Mr President. But, in the spirit of bipartisanship, as the Leader of the Opposition put to the Premier, I put to the Leader of the Government that I hope that he might take up with the Premier and with the Attorney-General the possibility that there be some joint responsibility for the staff and for the resources because, clearly, having the President on the committee is a good first step but there is a heap of money and a lot of people working on this particular convention and, if they are all controlled by the Speaker of the House of Assembly with no authority from the President of the Legislative Council, I think there would be a number of members of the Legislative Council who would be concerned. But we will take each bit as it comes, Mr President. We look forward to your taking up the challenge on the committee on behalf of the Legislative Council, and we are delighted that this motion will now pass.

The Hon. SANDRA KANCK: The Democrats support the motion. One hopes that it was simply an unfortunate oversight in the first instance and not some sort of a plot. It would appear from what the Hon. Paul Holloway has said that it was one of those cases where, if you have to choose between a stuff-up and a conspiracy, it was a stuff-up.

Certainly, it appears that the future role of the Legislative Council will be a key part of the discussions during the Constitutional Convention, and therefore it makes a great deal of sense that the President of this chamber is on the steering committee. We all know that government is formed in the lower house but, nevertheless, with the proportional representation system, this chamber is far more representative of what the people of South Australia want. Again, that means that the role of this place must be taken seriously and it must be represented on the steering committee.

The Hon. A.J. REDFORD: I will be brief. I think that this is just part of a series of distressing decisions made on the part of this government. I point out to the Hon. Sandra Kanck that this was not a naive decision—it is part of a deliberate plan to undermine this chamber. It is part of a deliberate strategy—

The Hon. Sandra Kanck: Like having only two ministers.

The Hon. A.J. REDFORD: That is a very pertinent interjection and one which I was going to mention. It is part of a very deliberate plan to minimise the role of this chamber, and part of a softening-up process of the electorate to either remove our powers or to remove this place altogether. We on this side are seeing it over and over again. All I can say to the members sitting on the crossbenches is that this process will continue apace, and in some respects—and I say this with the greatest of respect—watching the members sitting on the crossbenches is a little like watching a frog being slowly boiled in cold water. At the end of the day, they do not appear to realise what this government is doing and, when they wake up to what it is doing, having been softened up—

The Hon. Nick Xenophon: I moved the motion.

The Hon. A.J. REDFORD: I appreciate that, and it was at my suggestion, if I recall correctly. When they wake up, it will be too late to save this chamber. I urge the members on the crossbenches to be a little more diligent than in the past because, clearly, there is an agenda on the part of this government to strip this place of its powers or, indeed, of its very existence.

The Hon. R.D. LAWSON: I speak briefly in support of this motion and, as a member of the steering committee, I certainly welcome your appointment to it, Mr President. I had initially made a suggestion to that effect, and it is good that the minister has finally appreciated the wisdom of having the President of this chamber on the steering committee.

It was also my view, expressed to the government, that minority parties and Independents in this parliament should have a voice on the committee. I am rather surprised that the Hon. Sandra Kanck, in her contribution, whilst welcoming your appointment, Mr President, did not make the point that, when one talks about parliamentary and constitutional reform, one expects all perspectives represented in the parliament to be represented on a steering committee of this kind. The government has invested a great deal of political capital in the claims of constitutional reform.

I was present on the weekend at a constitutional convention organised through the Australian Constitutional Law Association at which the Premier gave an opening address in which he outlined his personal interest over a very long time in constitutional and parliamentary reforms—I think he said that his interest goes back 20 years—and he outlined a very wide range of items which, in his view, the coming Constitutional Convention should examine. I will not go through them, but it was stark to contrast the Premier's view that the Constitutional Convention ought to look at a very wide range of matters with the fact that the Speaker, the member for Hammond, and also the Attorney-General, later at the same conference—I do not believe that either was present when the Premier made his speech—spoke about a convention which

will be limited to a number of things that the member for Hammond thought up.

We, from the Liberal opposition's point of view, will press upon not only the steering committee but all those associated with the Constitutional Convention and the government the need to have a wide-ranging examination of quite a number of issues, not simply the issues that the member for Hammond has laid down as those to be considered. If we are to have genuine constitutional and parliamentary reform in this state—and the Liberal Party is certainly committed to examining all of the issues relating to it and proceeding positively with it—we need to have a committee that is broadly representative of the parliament.

With that comment, Mr President, I welcome the announcement that you are to be invited to join the committee. I urge you to accept that invitation. There would be good grounds, Mr President, for you to say that you would not, given the slight that has been dealt in your direction in the past. I urge you, Mr President, to join the steering committee because, as all members know, you will make a great contribution to it.

The Hon. NICK XENOPHON: I thank members for their contributions. I am pleased with the government's announcement that you, Mr President, will now be part of this committee. The Hon. Angus Redford is right: we must be diligent. As a crossbencher I agree that there is an onus on us to be particularly diligent in relation to the role of this chamber. I also believe it is important, given the remarks made by the Hon. Angus Redford, that crossbenchers have input into the planning of the Constitutional Convention. At the very least, we ought to be consulted, otherwise the government might find that some crossbenchers become very cross benchers if we are ignored in this process!

It is the case, as the Bard says, that all's well that ends well in relation to this part of the process, and I am grateful that this matter has been resolved without rancour. I hope and trust that the process of the steering committee will be transparent and will take into account the views of all members, both of this chamber and of the other place.

Motion carried.

GENE TECHNOLOGY (TEMPORARY PROHIBITION) BILL

Adjourned debate on second reading.

(Continued from 17 July. Page 569.)

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The government will not be supporting the bill moved by the Hon. Mr Gilfillan in relation to GMOs, and I will explain why. I also point out that, probably as I speak, my colleague the Minister for Health in another place, the lead minister for the government in relation to gene technology matters, will be moving to establish a select committee to look at a number of issues in relation to genetically modified organisms. In particular, she will be moving that a select committee be appointed to inquire into and report to the parliament within 12 months on the following issues:

(a) how South Australia can assess, within the established commonwealth-state regulatory framework, the impact of GM plant technology from the point of view of human health, environment and market access;

(b) identifying where the impact of GM plants might be different in South Australia compared with the rest of Australia and other countries, and advise on strategies that South Australia should adopt to address these differences;

(c) reviewing the relevant state, national and international reports and inquiries on GM plants and report on the major issues for South Australia in relation to human health, environmental safety and market access; and

(d) providing advice on the means by which the South Australian community can be consulted and informed and can consolidate views in relation to GM plants.

The whole question of genetically modified organisms (GMOs) is a very important one for our community and there has already been considerable debate within the community on the matter. The Hon. Ian Gilfillan has brought a number of bills before this parliament in the past, supported on one occasion by the then Labor opposition. That was before the commonwealth-state agreement on GMOs that led to the commonwealth and state gene technology acts. The commonwealth Gene Technology Act was passed in 2000 and the South Australian act was passed towards the end of last year. So, we now have in this country a framework to address the introduction of GMOs within the country.

However, there are a number of unresolved issues in relation to the matter, and it is specifically to address those issues that the select committee has been established. I would point out that a lot of work has been done in relation to the subject generally, and I commend the Social Development Committee. When that committee was chaired by the Hon. Caroline Schaefer it undertook a couple of large reports in relation to GMOs, in both crops and, I believe, the health sector, looking at the more general issues. What we now face, of course, are the more specific questions about dealing with the management of these issues. Specifically, I want to indicate why the government believes that, on the one hand, we should be undertaking more investigation in relation to the introduction of GMOs into our community while, at the same time, being opposed to the Hon. Ian Gilfillan's bill.

We believe that it has a number of inadequacies, and I would like to point out what they are. We are certainly not averse to considering the need for legislative intervention to regulate the introduction of GM crops in South Australia. Indeed, that was flagged in the policy that the Labor Party took to the last state election. However, we also recognise that implementing such legislation may be complex, and we wish to systematically examine alternatives and address a range of necessary steps that would need to precede any legislative initiative in this area. That, again, is the role that the select committee we have established would undertake.

It also needs to be pointed out that, following the commonwealth-state arrangements on gene technology and the establishment of the Office of the Gene Technology Regulator, a key preliminary step in any legislative mechanism to manage GMOs at a state level would involve the establishment of a policy principle for the recognition of state legislation for the declaration of GM-free zones for crops and marketing purposes. Such a move has been initiated with the support, I think, of all states and certainly with the support of the Minister for Health in this state (Hon. Lea Stevens), who supported this through the Gene Technology Ministerial Council, of which she is this state's member. This is a necessary step to remove areas of constitutional uncertainty

over the operation of any such state legislation in relation to the commonwealth Gene Technology Act 2000.

Due to the prescribed need for consultation on this policy principle, this principle may not be considered by the council until later this year. I also point out that, whereas the Hon. Ian Gilfillan's bill would introduce a five-year moratorium on GM crops, we have in a sense a de facto moratorium on commercial production, because the first commercial production of GM crops in South Australia will not occur until mid-2003 at the earliest, since GM canola will not be licensed for commercial release until then. All the indications from bioscience companies to my department are that initial commercial sowings will be restricted and may be limited only to the eastern states, even if that approval is given in time for the 2003 sowing season.

Perhaps the most important point that needs to be made is that the advice the government has from the Crown Solicitor is that the Hon. Mr Gilfillan's bill would be invalid in its entirety if enacted, whether or not a policy principle were issued. That is an important point that needs to be made, but there are also a number of other shortcomings in this bill. First, the fact that it seeks a moratorium for five years could be considered somewhat severe and inflexible as it does not allow any relaxation of the moratorium in response to changes in market forces over that time and there would be other ways to achieve that outcome that offer greater flexibility.

I also point out that the Hon. Mr Gilfillan's bill is inadequate in that it is silent on matters of enforcing the proposed moratorium. It does not seek to empower any inspectors to ensure that any introduction of GM plant material, accidental or otherwise, is prevented, or to monitor whether there has been any introduction, or to prosecute offenders.

I would have thought that if one were serious about such measures one would need authority to undertake any disposal and remediation work if GM plant material was identified in the state. I would also point out that the Hon. Mr Gilfillan's bill would place a complete restriction on the conduct of field experimentation of GM crops. Further, I point out to members that the government was pleased to announce earlier this year the establishment of the new Australian Plant Functional Genomics Centre. I acknowledge that the initial application (although not the funding) and planning for that centre was initiated under the previous government.

That centre at the Waite campus will play a major role in keeping South Australia at the forefront of developments in the gene area, including the development of new strains of plants. The Gilfillan bill, I believe, is inconsistent with the government's intentions and priorities for industry development based on maintaining a leading plant biotechnology research and development capability. This bill has some other problems. The bill in its current form seeks to have the act come into operation within a month of the Governor's assent. This short time frame would appear to prevent attending to two consequential matters, and one is the National Competition Policy.

If such a bill, which is fundamentally anti-competitive in nature, comes into operation without an analysis, review and report that meets the requirements of the Competition Principles Agreement, it is possible that the National Competition Council could penalise the state; and, further, to seek an exemption, if required, under the commonwealth's Mutual Recognition Act or the Trans Tasman Mutual Recognition Act 1997. The Competition Principles Agreement specifically states that proposals for legislation must be accompanied by evidence that any restrictions are justified by a net public benefit, and these matters should be clarified before the submission of a bill rather than left until later.

I think I have indicated that the honourable member's bill has a number of problems, not only fundamentally in terms of its legal validity but also in relation to practical concerns in relation to its operation. The government would therefore use the time that it has—this de facto moratorium to which I referred earlier—so that it will not be faced with a commercial application of GM crops in this state for at least 12 months. However, given that time, the government is in the process of establishing a select committee in the House of Assembly which will examine some of the key issues from this review and which will be much more issue and outcome focused than previous reviews, such as that undertaken by the Social Development Committee to which I referred earlier.

The government will be able to respond to identified needs in an appropriate and systematic manner within the existing national regulatory framework of the commonwealth's Gene Technology Act and South Australia's Gene Technology Act 2001. It is important to recognise that this does provide an appropriate forum to examine whether the government should be legislating for the declaration of zones, or how that might best be done. It enables all the pros and cons to be carefully weighed rather than rejected out of hand by a blanket moratorium. A flexible approach to legislation can achieve both options available in section 21(1)(aa) of the Gene Technology Act, that is, declare zones to be GM free or GM only for market purposes.

As an example of other issues that need to be managed under this regulatory framework, all dealings with GMOs must be licensed by the Gene Technology Regulator. Such licences can be granted only if the regulator is satisfied—after extensive and prescribed risk assessment—that any risks posed to human health or to the environment are able to be managed acceptably (section 56 of the act). Once licensed, the national regulatory framework does not provide a mechanism for states to add an additional layer of regulation for environmental management.

It is therefore imperative that any state environmental issues are adequately dealt with either in the risk assessment consultation as part of the pre-licensing stage or through monitoring of compliance with any conditions consequently imposed as part of the licence. The detail of how this might best be achieved can be addressed by the parliamentary select committee, including how community opinion can be best engaged. We believe that we do need to proceed with caution in relation to the introduction of genetically modified organisms in this state. A number of issues are yet to be resolved.

We believe that the committee to be established by my colleague in another place is an appropriate way to go in relation to this issue. It is also necessary, I believe, for there to be continuing debate within the community. Over the past 12 months we have seen that the farming community in particular must make a decision in relation to the growth of genetically modified crops. It is important that the farming community be properly informed about the issues relating to this matter before those choices are made. I also believe that the process the government has taken will enable those broad-ranging discussions within the rural community to take place. The government will be opposing the bill.

Debate adjourned.

PITJANTJATJARA COUNCIL

Adjourned debate on motion of Hon. R.D. Lawson:

1. That a select committee of the Legislative Council be appointed to investigate and report upon—

(a) the operation of the Pitjantjatjara Land Rights Act 1981;

(b) opportunities for, and impediments to, enhancement of the cultural life and the economic and social development of the traditional owners of the lands;

(c) the past activities of the Pitjantjatjara Council in relation to the lands.

2. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being reported to the council.

4. Standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses, unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 21 August. Page 737.)

The Hon. R.D. LAWSON: Before the adjournment I was explaining to the council the reasons advanced for the establishment of a select committee to investigate and report on the operations of the Pitjantjatjara Land Rights Act, and certain related matters. In my contribution I outlined the rather rocky start to the Minister for Aboriginal Affairs and Reconciliation's relationship with the traditional owners of the lands. I also outlined some of the proposals that are now being advanced by the government—through Mr Randall Ashbourne—for proposed changes to the Pitjantjatjara Land Rights Act.

I said then and I repeat that this is landmark legislation and that the Pitjantjatjara lands of South Australia are an extraordinarily important part of this state. However, I regret to say that, in my view, over the past 20 years this parliament has perhaps not paid sufficient regard to this matter. Now, however, the government is proposing to amend that legislation and is advancing a number of new models for governance. I believe it is appropriate that this parliament establish a select committee to examine many of the issues that are underlying these proposals so that the parliament is better informed before the government introduces legislation.

This is all against the background of a coronial inquest into some tragic events on the lands involving substance abuse. Mr Ashbourne's latest communication to various parties with interests—or claimed interests—in the lands, states that the government considers that the current act needs to be amended, or rewritten, to ensure, 'a more adequate provision of services and a higher level of accountability'. Whether it is necessary for the act to be amended to achieve that is an issue which ought to be examined. Mr Ashbourne continues:

> At this stage the government would like to see a structure where AP and its executive act in a general manner of a land council and a hybrid local government structure is formally established and recognised in the new act to provide day-to-day services to the Anangu communities.

This notion that the AP should act in the general manner of a land council is concerning. It is true that some people on the Pitjantjatjara Council are advancing an argument for, and would like to see the establishment of something like, a land council. Certainly, from my examination of the issues, I remain to be convinced.

An argument has been articulated by Mr Mark Ascione, formerly the principal legal officer of the Pitjantjatjara Council, in an address to a mining conference at Cairns, held, I think, at the end of May 2002. I have read his paper, entitled 'The Future of Mining on Pitjantjatjara Lands', and, having read the article, I think one sees where the government, or the minister, is getting some of its ideas about the way in which the land should be governed. I must say that the article published by Mr Ascione does not inspire much confidence in me that he has a very thorough grasp of the legal principles involved.

Mr Ascione is, as I say, formerly the principal legal officer for the Pitjantjatjara Council, and he strongly advances the argument that the Pitjantjatjara Council should have a greater role in the Pitjantjatjara lands. He examines some of the history and, in advancing the proposal that something akin to a land council should be established, he says this:

> Despite the similarities between the South Australian and Northern Territory land rights legislation, there still remains one obvious distinction. In the Northern Territory case its legislation established land councils as statutory authorities responsible for the management and use of designated Aboriginal lands. On the other hand, South Australian legislation fails to include any reference to land councils, as defined under the Northern Territory act.

He continues:

> The intention of establishing such land councils in the Northern Territory was and is to provide legal, anthropological and other expert advisers that respond to the wishes and opinions of the traditional Aboriginal owners.

And here is the nub:

> Negotiations between mining companies and land councils will occur. After the granting of mining leases, moneys are then transferred to those councils, being a percentage of royalty entitlements. Whilst the Pitjantjatjara Land Rights Act of South Australia does provide royalty arrangements to AP, a body corporate pursuant to the act as a land-holding body, and not as a land council, it does not provide any royalty payments for the legal and anthropological services by the Pitjantjatjara Council for providing essentially similar services as the Northern Territory land councils.

As the minister has acknowledged in this place, the Pitjantjatjara Council was, in the past, the supplier of legal and anthropological services to AP. That was a matter that AP itself decided upon. The AP itself has decided to terminate those arrangements with the Pitjantjatjara Council, which seeks, by means of changes to the legislation, to once again give itself a place in the sun.

Mr Ascione speaks further in the paper of what he describes as, 'our unique internal relationship and historical commitment for 25 years', and he is speaking there of that relationship which he believes that the Pitjantjatjara Council has enjoyed in providing services to AP. Many of the other issues referred to by Mr Ascione in his paper to the mining conference will deserve close consideration by the select committee which I hope this council will be establishing.

In a section of the article, under the heading 'Vulnerability of the Pitjantjatjara Council', Mr Ascione outlines some of the history as he sees it. He says:

> There have been sporadic attempts in the past to minimise or eradicate Pitjantjatjara Council's involvements with AP. The lack of legislative protection of Pit Council, as the de facto land council, is a major and increasing concern. The political climate of the day determines the outcome of the Pitjantjatjara funding for the short-term future and is exacerbated by vested interest groups that may directly or indirectly undermine Pitjantjatjara Council's very existence.

It is very clear where Mr Ascione is coming from. He is interested in the protection of the Pitjantjatjara Council's place in the sun, rather than the rights and interests of the traditional owners of the land.

It is extraordinary that Mr Ascione would then tell the delegates to this mining conference, who presumably heard his address, the claims that it was not legally possible for the legal services of the Pitjantjatjara Council, previously provided to AP, to be transferred to AP, because, he claimed, that was an obvious breach of the guidelines set out by the Law Society of South Australia. The basis for this, according to Mr Ascione, is that AP has no legal status, unlike Pitjantjatjara Council, and it is only the Pitjantjatjara Council that is permitted to obtain in-house lawyers for the purposes of advising AP. This is utter nonsense.

The claim that AP has no legal status, coming from a lawyer, is a surprising assertion. AP is established by South Australian statute. It has rights and obligations under South Australian legislation. This is not a point on which the minister would agree with Mr Ascione because he has said on a number of occasions, as has Mr Randall Ashbourne in his communications, that the status and rights of AP are acknowledged. In conclusion, Mr Ascione makes this outrageous claim:

> Pitjantjatjara Council will retain a major role in any decisions affecting traditional owners, and AP will ensure orderly and professional services when dealing with legal, cultural or sensitive matters.

The Hon. T.G. Roberts: You would agree with that, wouldn't you?

The Hon. R.D. LAWSON: As the minister interjects, I would agree with that. I would'nt agree with that particular statement but it is quite consistent with the general thrust of Mr Ascione's argument. He wishes to see something in the nature of land councils, which he sees as the stream through which royalty entitlements are passed, being established in South Australia. Before the government buys this line it is essential that there be a full parliamentary investigation of these issues. I urge support for the motion.

The Hon. A.J. REDFORD: I support the motion moved by the shadow minister for the establishment of the select committee, and welcome this important initiative. The Liberal Party is extraordinarily proud of its history, and one of the achievements of the party most often cited in speeches is the passage of the Pitjantjatjara Land Rights Act by the Tonkin Liberal government in 1981.

In legislative terms, all those associated with that act and its passage deserve congratulations and take a place in South Australia's and Australia's history. Unfortunately, the lofty hopes and ambitions of the Aboriginal people, in particular, the Anangu Pitjantjatjara people, have not come to pass in the subsequent 20 years. The human tragedy unfolding as we speak in the northern part of this state is well known to the South Australian community. The substance abuse, the poverty and the plight of the Pitjantjatjara has now reached a stage where all South Australians of conscience should not sit back and watch the tragedy unfold without doing something about it.

I know that the minister—and I am sure that he will not mind me saying this—is deeply troubled by the plight of the Aborigines in the Pit lands. The minister has an extraordinary challenge in front of him, and it behoves us all to do everything in our power to assist him in this most difficult challenge. If ever there was a need for bipartisanship in this state there is a need here. If ever there was a need for everyone to knuckle down and focus on basic human need, this is the need. I know from private conversations with the minister that he is doing everything in his power to alleviate that human tragedy. I know that he has the support and best wishes of every member in this chamber in dealing with this tragedy. I know that everyone in this chamber will do everything in their power to support him and the state in this difficult endeavour.

This select committee will ensure that all of us will be involved and focused on solutions to this human tragedy. It will, I hope, stop some people from playing one person or politician off against another, unlike some behaviour in the past. Indeed, in answer to the question put by the Hon. Rob Lawson on Monday, the minister quite properly suggested that there may be a need in the not too distant future to look at the act and make appropriate amendments to ensure the wellbeing of the AP people.

Yesterday, the Hon. Robert Lawson went through the act in some detail, and I will not traverse that territory again. However, it is interesting to see that the Pitjantjatjara Land Rights Act, when enacted by those enlightened legislators over 20 years ago and, indeed, by subsequent legislators when amended in the late 1980s, established the Pitjantjatjara Lands Parliamentary Committee, pursuant to section 42c of the act. The committee was charged with the responsibility of considering the act and was chaired by the minister. I think that the time has come for this parliament to again focus on the plight of the AP people.

Unfortunately, politics has intervened in this issue to the effect that people and resources have been distracted from the primary aim of the welfare of the AP people. I am not talking about big 'P' politics or Labor-Liberal-Democrat politics but local or small 'p' politics. There are some who would seem more intent on protecting their own positions or sinecures than the overall benefit of Aboriginals, in particular, the future of young Aboriginals.

The former minister, who I believe did a very good job in extraordinarily difficult circumstances, gave us an example of that on 11 July this year. I think that it is important that I make some comment about that to illustrate just what the former minister and the current minister have to deal with. In that respect, I refer to the Pitjantjatjara Council and its role in this matter.

As the minister said on Monday, there has been an ongoing dispute between the AP and the Pitjantjatjara Council, which he suspects '. . . will be the subject of a legal battle.' That is unfortunate, because the primary focus should be, to quote the minister, 'on the evils of petrol sniffing, alcohol abuse, truancy from schools and poor health and nutrition' and not on some forensic battle or turf war. There is simply not enough energy to waste on issues such as that and, indeed, there is certainly not enough time to waste on issues such as that. I believe that this parliament should send the strongest possible message to those protagonists that we are not amused.

As an example, I will go through one particular problem in relation to the legal relationship between the AP and the Pitjantjatjara Council. In early 2001, the Department of Aboriginal Affairs became involved in an attempt to formalise an agreement between the AP and the Pit council. By letter to the AP dated 5 February, the then CEO of the department, David Rathman, wrote to Owen Burton, chair of the AP and said a number of things in relation to a draft

provider agreement that, at that stage, was being negotiated. He said:

> The intention of AP to formalise its service agreements with service providers is supported. It is considered essential in providing accountable management to ensure that all parties clearly understand their legal and administrative responsibilities.
>
> It would be advisable for AP to adopt a similar process that the government agencies including DOSAA and ATSIC are required to follow in regard to service agreements.
>
> All services provided by other organisations to DOSAA must be contracted. The normal process is to go to open tender. Service providers with the necessary skills and resources bid for the work. The provider that can best deliver the service is hired.
>
> If the service agreement is to be offered to one provider, at least two other quotes must be sought to ensure the best service is provided.
>
> The draft service agreement is an excellent first attempt to establish a standard contract to service providers. I attach examples of standard contracts used by the department, and have requested Mr Peter Campaign to work with AP to develop an agreement that will be understood and supported by AP and its service providers.

As I have said, that letter is dated 5 February. For some inexplicable reason, and in circumstances that are not known to me, the following day an agreement was signed.

The provider agreement sets out that the Pitjantjatjara Council is to provide legal anthropological and accounting services to the AP for three years commencing 1 January 2001. The legal work is described in this document as follows:

> The Legal Department shall assist and advise AP its members and Traditional Owners. . . pursuant to Section 6 and 7 of the Act, as they may be directed from time to time in the areas of the rights and obligations conferred upon AP and the Traditional Owners by the Act. . .

It goes on to say that it would also provide assistance to individual members:

> . . . such as legal advice and assistance with their legal problems including Compensation Claims, Probate and State matters.

It goes on to say that it would provide anthropological services and be responsible for actions taken in relation to that area. It also sets out some responsibility in relation to accounting and other matters. The agreement also sets out the payment regime and the formula used. It says:

> . . . funding allocated for Legal and Anthropology Services which AP will receive from ATSIC/DOSAA funding by way of automatic transfer to the Provider General Account. . .

This agreement was expressed to last for three years. I am not sure why it was put in those terms, because the funding arrangements of the AP are done on an annual basis with ATSIC and the department. Whoever and whatever side signed this agreement were not in a position to sign an agreement that went further than the funding arrangements that were in place. This matter was drawn to the attention of the AP Executive by Mr David Rathman on 16 February.

A letter from Mr Rathman to Mr Burton makes a number of comments in relation to the 'proposed' service agreement. On the face of the document, it would appear that the department was not aware that a binding agreement had already been entered into at that time. That is disappointing, not to put too fine a point on it. The letter states:

> The document does not contain any key indicators to enable the executive to assess the performance and to hold the provider accountable. The description of services describes how the provider will work, not what the provider will do. Funds for AP provided by the [department] are to enable AP to meet its responsibilities under the Pitjantjatjara Land Rights Act. The extent of services and range of clients identified are wider than the responsibilities of the act. I believe the Aboriginal Legal Rights Movement Inc. is separately funded by the commonwealth government to provide many of these services. Whilst the source and amount of financial resources are identified, the executive or the provider cannot assume that the funds are available as suggested in the document. AP is only able to make the payments to the provider from grant funding from state and commonwealth departments that meet the conditions of the grant. It would be unwise in these circumstances to make payments in advance, as required by item 5 of the schedule.

He then offers to provide assistance to the AP and points out that there are certain ethical rules in relation to the provision of legal services. For some reason, those very worthy and considered suggestions were never followed up. Indeed, the Pitjantjatjara Council, as I will outline in some detail, proceeded to stick, as best it could, to that agreement that was signed on 6 February in circumstances of which, I have to say, I am not completely aware.

At some stage subsequent, Mr Rathman, I assume, became aware of the signing of this contract and sought advice from the Crown Solicitor. On 5 April 2001, the Crown Solicitor wrote to Mr Rathman. Mr Rathman had asked the Crown Solicitor to provide advice on three issues, as follows:

> 1. What legal responsibilities must AP perform to comply with the administration of the [act]. . .
>
> 2. Given the Pitjantjatjara Council Legal Services seems to have established a 'monopoly' on the provision of legal services, how can DOSAA ensure that AP receives value for money. . .
>
> 3. Should legal services (in accordance with the [act]) be provided to individuals?

I will not go into the detail of the five-page response, but I am sure the minister, if he has not read it, has been briefed on it. If he has not been briefed on it, I am happy to give him a copy of any document to which I refer. A letter from the Crown Solicitor, who signed off on the monopoly question, states:

> The appropriate cost for legal services to AP is a matter of administration and policy for AP to determine, it is not a legal opinion. AP is not a state instrumentality and its decisions cannot be controlled by the state.

I agree with that. In relation to the provision of services to individuals, the advice is as follows:

> However, it would be a matter of concern to the state if AP were to receive state funds and then to expend those funds on purposes outside its functions and powers. It is not entirely clear on the facts presented to me whether or not AP is applying state funds for the purpose of individual legal representation of members of AP, but this may be the case.

In any event, what was concerning Mr Rathman, quite properly at that stage, was that there appeared to be almost a double payment in terms of public funds—payments going to the Aboriginal Legal Rights Movement, which does provide, in my view, a very good service, given its limitations, to the Aboriginal people; and, at the same time, the Pitjantjatjara Council was also attempting to collect money in relation to the provision of similar services. On any analysis, that might appear to be a waste of money. In any event, there followed a very vigorous exchange involving Mr Rathman and there is a series of letters, copies of which I have. On 19 April—

The Hon. T.G. Roberts: This is the exchange between whom?

The Hon. A.J. REDFORD: Between the minister, the department, the Pitjantjatjara Council and the AP. It was quite clear, if I can paraphrase it, that the whole status of this agreement and problems identified by Mr Rathman were up in the air. I think that is important. When one looks at the human tragedy that is unfolding up there, and when one looks at a government department—and I think this advice would have been given, irrespective of the political persuasion of the

government—that is endeavouring to facilitate some changes and proper outcomes in terms of that legal agreement, the behaviour of the Pitjantjatjara Council subsequent to that leaves, in my view, something to be desired.

In any event, the minister wrote to Mr Lewis and pointed out that the primary responsibility was to assist AP people in their duties and responsibilities under the act. She pointed out that any arrangement with the Pitjantjatjara Council was a matter for the AP, and certainly, other than the provision of advice, the government did not seek to interfere. At that stage, I think, that was a reasonable approach to take. Notwithstanding that, given the difficulties and uncertainty associated with this legal provider agreement, and the very fact that it was signed so quickly after some pertinent and critical comments about it were ignored, the Pitjantjatjara Council decided that this was 'an agreement from heaven'. A letter of 20 April, which is signed by Mr Gary Lewis and which is addressed to the minister, states:

> I was distressed by your lack of acknowledgment of our legally binding 'provider agreement' between AP and Pitjantjatjara Council, which was signed on 6 February 2001. I understand that you have been in receipt of our provider agreement, but I enclose herewith the same for your information.

There we have it. This agreement has been signed in uncertain circumstances. It has been criticised for a lot of good reasons. It is now becoming the linchpin upon which the Pitjantjatjara Council will hang itself as best it can, and, as I will explain in some detail, wave and drag out on every possible occasion.

The Hon. T.G. Roberts: Who are the signatories to the agreement?

The Hon. A.J. REDFORD: The agreement bears the common seals of the AP and the Pitjantjatjara Council. Mr Burton appears to have signed as one of the executive members on behalf of the AP, with four others whose signatures are illegible to my eye. The signatures on the part of the Pitjantjatjara Council include Mr Williams, Mr Graham Hulyurn and Mr Adrian Tutpalki.

The Hon. T.G. Roberts: That is when they were talking to each other.

The Hon. A.J. REDFORD: That might be the case. Certainly, people do not have to be in the same room to sign agreements, and I can say that from my previous experience. The letter from the Pitjantjatjara Council refers to the engagement of a Mr Rob Burdon. The letter states:

> It later became clear that Rob Burdon, former consultant to AP, approached Richard Bradshaw, solicitor from Johnston Withers to prepare an 'independent' opinion of the Provider Agreement. That approach was beyond the authority of AP and without a resolution from the Executive Board. Consequently, during our last AP Executive meeting of 3-4 April 2001 the issue of this 'independent legal opinion' was raised. It was stated that Mr Bradshaw had been engaged and the Executive members were surprised by that fact. Ultimately there remains no resolution that instructs Mr Bradshaw to take this matter on board. I have been made aware that Mr Bradshaw has since withdrawn from this matter.

That raises a fairly important concern. Here we have an agreement, of which the department and the Crown Solicitor have been critical, that the Pitjantjatjara Council is now waving about. When the AP wants to obtain some legal advice about the status of the agreement and what it may or may not do, the Pitjantjatjara Council claims the exclusive right to give such advice. On any analysis (and there is a theme that I will pursue throughout this contribution) that, to my mind, is an out-and-out classic class A1 conflict of interest. And AP, with respect to issues in determining contractual relationships and responsibilities between the AP and the council, was certainly entitled to obtain independent legal advice. Indeed, any legal practitioner who might have been involved with the Pitjantjatjara Council would be under a professional obligation to tell the AP executive that, indeed, it should take that very course, rather than endeavour to seek exclusivity or total control of any legal advice that might be delivered to the AP people.

The Hon. T.G. Roberts: Was it the full executive or was it executive members who chose that?

The Hon. A.J. REDFORD: The member interjects, and it is an important question. From the documentation that I have, there is confusion and it is very hard, based on the documentation, to determine what is the position one way or the other in that respect. Certainly, I acknowledge (and I have not said this earlier) that, obviously, there is a cross mixing of personnel between the Pitjantjatjara Council and the AP, and there is obviously some confusion, particularly in the minds of some members, as to what role they were performing at any given moment—whether they were performing a role on the part of the council or on the part of the AP.

The fact of the matter is that, if you are a legal adviser and see that sort of situation unfold in front of you, you have a real responsibility to give proper, timely and careful advice to ensure that the responsibilities and obligations are not mixed up, as they subsequently appear to have been done and, in fact, it has distracted these poor people, who have an enormous challenge in front of them, from probably what should be their primary focus. Indeed, ATSIC in this case has tried to play a positive role, and I have nothing but sympathy for the enormously difficult position in which it has been put in relation to this whole matter.

The Hon. T.G. Roberts: Should DOSAA have played a stronger role in sorting that out?

The Hon. A.J. REDFORD: At that stage, I do not think it could have done any more. Every time DOSAA tries to do something helpful, one or another group calls for the minister's head. I think the current minister's head has been called for a couple of times, and I think—

The Hon. T.G. Roberts: From both sides.

The Hon. A.J. REDFORD: Yes, from both sides—and I think the previous minister's head was regularly called for.

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

The Hon. A.J. REDFORD: That is the difficulty. And I digress a little; that is why it is really important for the benefit and the welfare of these people that we get behind this minister and give him all the help that we can. It is too important to play any what I would call 'big P', or Labor/Liberal/Democrat politics. In any event, David Rathman wrote a letter to Commissioner Brian Butler on 30 May. In that letter, he referred to a letter (of which I do not have a copy) dated 14 April from the chairperson of the Pitjantjatjara Council, Gary Lewis. In that letter, Mr Rathman said:

> I refer to comments made in the first paragraph on page 2 of the letter. Without passing any judgment over the validity of the 'legally binding provider agreement', purportedly entered into between the Anangu Pitjantjatjara and Pitjantjatjara Council Inc., my department and its officers have never at any stage 'exerted pressure' on employees of AP administration in an attempt to undermine the conditions under which Pitjantjatjara Council provide services to AP.

He goes on and says:

> The last paragraph on page 2 I find particularly concerning. The allegation that I was present at a small gathering of Anangu members at Umuwa on 27 April 2001 and promised Tjilpi members that DOSAA would provide four wheel drives for Tjilpis financed by

moneys channelled from ATSIC to DOSAA for 'land rights administration' is blatantly untrue.

There is a pattern of this sort of correspondence right through the material that I have. There then came to be a situation where the AP decided that it would engage Mr Borick QC and a Professor Bob Moles (a former law professor at the University of Adelaide) to provide advice to the AP generally about the provision of legal services. As a consequence of their engagement, they were invited by the AP people to go to the lands. It is important to understand (and I am sure that everyone knows this) that to enter those lands one needs permission. They are, quite rightly, entitled to refuse or grant that permission. My understanding is that that permission was granted. Mr Borick QC and Professor Moles attended the Pit Lands in late May last year.

Knowing Mr Borick QC as I do (and I know him very well; I have juniored him in many cases), he may well have indicated his view about this legal service provider agreement. It was, from my understanding, exactly and precisely in accord with what David Rathman had been saying way back in February: there was a lack of definition about the services to be provided; there was no competitive tender; and, indeed, there was no way in which there were mechanisms to ensure that the council was providing the services as contracted. In other words, it was too vague as to whether or not they would properly perform their job.

Notwithstanding that, the Pitjantjatjara Council became concerned, so it wrote a letter dated 4 June to David Rathman. In that letter (and I have explained about the uncertainty of this agreement), it again stands this agreement up and stands right behind it. The letter states:

> I do not need to remind you of the provider agreement which exists between Anangu Pitjantjatjara and Pitjantjatjara Council Inc. and the long history of association between these organisations. As I previously advised you in previous correspondence, Pitjantjatjara Council having no alternative by not being in receipt of funding up to seven months of non-payment of funding. . . we presented a draft provider agreement in December 2001 and later in February of this year it was unanimously resolved to sign and seal the said provider agreement in accordance with section 11 of the Pitjantjatjara Land Rights Act 1981.

It goes on to say:

> I had also made clear that any 'independent legal adviser' has not obtained the consent and authority as there has been no resolution passed at AP general meetings to do so.

Here is the council giving advice to AP about the legal position in relation to the engagement of Mr Borick. That advice was in direct conflict with the position that it was putting forward regarding the provider agreement. I will put it in simple terms. Mr President, if you and I enter into an arrangement whereby I am to provide you with legal advice and you express some concern about that advice, it would ill behove me to say that I am going to be your adviser on that issue. I am clearly in conflict. The advice that I give you can be tainted by the fact that I have a self-interest in the contract. Clearly, I have an ethical and moral responsibility to suggest that you seek independent advice. However, that is not what the council did in this case. I suspect that the council—and I am not being critical of any individuals—was being advised by a legal practitioner in relation to some of this activity, and that is what I am very concerned about.

It goes on and says that there will be a special meeting of the AP, and in the letter he continues, as follows:

> I also understand that you are responsible for the presence of Mr Kevin Borick QC and the Associate Professor of Law, Bob Moles, on Anangu Pitjantjatjara lands on 29 and 30 May 2001. We note you arranged for Mr Borick QC to be 'legal adviser' for Anangu Pitjantjatjara in Adelaide on 15 May 2001 in your offices. We were not given the courtesy of a direct invitation to attend at your meeting and only became aware of that meeting at very short notice. We did arrange one Pitjantjatjara Council Executive member, Ivan Baker, to be present. He advised me that there were no AP Executive members present and that your lawyer, Mr Borick QC, was present.

The letter further states:

> I am thus shocked that your legal advisors imposed their opinions and advice on members of Anangu Pitjantjatjara in relation to Anangu Pitjantjatjara matters, with a clear lack of authority to do so. In addition, any opinions or advice given by external lawyers in relation to Anangu Pitjantjatjara would clearly constitute a breach of the Provider Agreement. Mr Borick QC and Mr Bob Moles were in breach of Section 19 of the Pitjantjatjara Land Rights Act 1981 for entering into Anangu Pitjantjatjara land without a Permit.

They are very serious allegations against one of the most senior and well respected barristers in this state—to say that he acted and entered upon that land illegally. Also, the assertion that Mr Rathman engaged him was completely wrong. He was engaged by AP. To wave this agreement and say to Mr Rathman that AP was not allowed to get any independent advice about this provider agreement because it had the exclusive right, as I said, is a clear conflict of interest. That causes me a great deal of concern, particularly when you are dealing with a group of disadvantaged people that has every right to expect the best legal advice that money or the community can possibly provide.

Indeed, on 4 June a media release was issued by Mr Burton and, I understand on the advice of Mr Ascione, Mr Thompson signed it. It says:

> The Anangu Pitjantjatjara Executive is elected annually and is the land holding body for the Anangu Pitjantjatjara lands in the north west corner of South Australia under the Pitjantjatjara Land Rights Act. Anangu Pitjantjatjara is the legal land holding body that represents all Anangu living on the Anangu Pitjantjatjara lands.
>
> Anangu Pitjantjatjara has engaged an independent lawyer to advise the Executive on the legality of a service provider agreement drawn up by the actual service provider and approved by the Executive subject to obtaining an independent legal opinion. The lawyer is engaged by the Anangu Pitjantjatjara Executive and not by the Department of State Aboriginal Affairs.

That sets it out clearly—press release, 4 June, AP says, 'He is our lawyer.' But the council not only says that Mr Borick was engaged by Mr Rathman but makes some other pretty serious allegations which I will come to in a minute.

Subsequently, it was also claimed in the media that Mr Borick was expelled from the lands. I understand Mr Ascione was responsible for making the assertion that he was present on the lands illegally. That is a very serious allegation, particularly by a lawyer who ought to know better. Quite clearly, on any analysis, Mr Borick and Professor Moles were lawfully present on the land at the invitation of the AP executive. Mr Borick had been retained to advise on an agreement involving the council and under which the council stood to gain substantial benefits.

Notwithstanding that, the media release accused the government of an attempt to destroy the council and asserts that Mr Borick and Mr Moles were 'working for the division of the state Department of Aboriginal Affairs in South Australia and were directed by Executive Officer David Rathman'. That is simply not true. They also suggested that they were there for an ulterior motive—again, simply not true. The comments were false and I understand may well be the subject of some legal attention in the not too distant future, so I will not go too much further into that.

Following that fiasco AP wrote to a number of people, including Lynne O'meara of ATSIC. In that letter AP

apologised for the recent public attacks on the state government and DOSAA, and pointed out that the majority of the attacks originated from the council chairman and the principal lawyer—in this case Mr Ascione. The council said that the letters and press releases were not authorised by the Anangu Pitjantjatjara Executive Director Owen Burton, and suggested that ATSIC might take that up with the council. Mr Burton also wrote a letter in very similar terms to that of Mr David Rathman, and also to the former minister (Hon. Dorothy Kotz) who was also attacked.

Following that, one might think, if you were a lawyer and you had those things drawn to your attention, you would cease and desist, but it did not happen. In a memorandum dated 16 October 2001, written by Mr Ascione, the principal legal officer, to Gary Lewis, Chairman of the Pitjantjatjara Council, he makes a number of comments. On page 2 of that document he says:

> In spite of that legally binding Provider Agreement, DOSAA and ATSIC nevertheless attempted to dismantle the Pitjantjatjara Council using a 'so-called' independent legal adviser, Kevin Borick, in an effort to set aside the Provider Agreement.

On any interpretation that is a pretty strong attack on Mr Borick. It then goes on:

> As you recall, we were successful in stopping Mr Borick QC's attempts to destroy the Pitjantjatjara Council and again was successful in renegotiating the terms and conditions of the Terms of Reference and the engagement of Chris Marshall for a period of 6-9 months which commenced in early September of this year.

How he can responsibly say that Mr Borick was in any way attempting to destroy the Pitjantjatjara Council—and Mr Ascione is a lawyer—is beyond my understanding, and I am sure that if this matter comes before a select committee Mr Ascione will have every opportunity to put his point of view, and I hope he does. But it is a very strong attack on Mr Borick and, based on the AP correspondence, it is a complete misrepresentation of the position and, again, a conflict of interest. Notwithstanding that, they continue to advance the cause and confuse their role of giving advice generally to the AP on its role and, at the same time, of giving advice to the AP about the actual arrangement.

In any event, the next significant event was a dispute involving Mr Chris Marshall, the acting director, and there was an attempt to get rid of him. I will not go into detail about that but, again, I am happy to provide the minister with correspondence in relation to that. But the Pitjantjatjara Council's role in that was quite savage, in my view, based on the documentation in my possession. By letter dated 21 December 2001 the AP issued a statement directed to the Community Chairpersons and Council members, Chairpersons and Directors of other Anangu organisations and all Anangu on the Anangu Pitjantjatjara lands. That letter states:

> The AP Executive passed a resolution at its December meeting that AP should have its own lawyer and anthropologist and should start to manage its own affairs instead of having all its business controlled by the Pitjantjatjara council staff. This is our intention. We are sure that this will help us make AP a strong organisation that is able to manage the responsibilities given to it by the Land Rights Act.

I do not propose to make any comment about whether that was a good or bad decision but, under the act, the executive had every right to make that decision, subject to the existing agreement and whether or not that agreement was sufficiently binding to stop them. I think there would be many arguments in a court to say that perhaps that might not be the case.

In any event, on 22 January this year a letter was sent by the council to Mr Gary Lewis of the Pitjantjatjara Council. The letter was signed by the chairman and seven executive members of the AP Council, Pitjantjatjara Yankunytjatjara Land Council. I will read that letter because I think it is significant. It states:

> The purpose of this letter is to advise you and your senior staff of the conditions that will apply to the use by AP of the legal and anthropological services offered by the Pitjantjatjara Council in the rest of the current financial year. We also wish to propose a transition plan whereby the current outsourcing arrangement is discontinued in an orderly manner.
>
> As you know, AP intends to perform more of its statutory functions in-house with its own directly employed staff. AP, therefore, does not intend to continue to make its funds available to the Pitjantjatjara Council in the same manner and to the same extent that has applied in the past.

It goes on and asks some pretty serious questions. Page 2 of the letter states under the heading Legal Services:

> We request that you provide us with a fully itemised budget for the current (March) quarter, to include:
> · salary provision for Phillip Hope, Derek Schild and one secretary at their current salary levels,
> · associated travel, vehicle and other costs relevant to those three staff members,
> · reasonable office costs.
>
> The budget for the quarter should not exceed the amount made available to your Legal Department by AP in the December quarter.

It is clear that there will be a real tightening and, from what one can see from that correspondence, there is going to be a heck of a lot more accountability, and one would have to welcome that step. It also goes on and states:

> We would require that your legal department undertake the following specific matters for and on behalf of AP during the quarter:
> · Progress to the greatest possible extent all current applications for grazing licences on the lands and provide at the end of the quarter a full report on the status of each of those applications.
> · Progress to the greatest possible extent all current mining exploration applications on the lands and provide at the end of the quarter a full report on the status of each of those applications.
> · Progress and report on the Mintabie lease renewal matter.
> · Progress and report on the proposed electricity generation, supply and distribution agreements on the lands.
> · Progress and report on any other matters currently being handled on AP's behalf.

It also goes on and asks for a detailed budget showing the actual requirements of the anthropology department that would allow it to retain current staffing levels and continue to carry out its level of activity. In the final paragraph it states:

> Furthermore, in view of your current attempts to have Chris Marshall's contract terminated, you should note that the AP Executive has unanimously endorsed his continued consultancy with AP and it is not the business of the Pitjantjatjara Council to interfere with this arrangement.

I have to say that I have correspondence, which I will not bore members with the details of, to show that there were substantial attempts on the part of the council to interfere with Mr Marshall's appointment. I do not know Mr Marshall and whether or not he is doing a good job, but it is a matter for the AP executive, not for the Pitjantjatjara Council. In no field of endeavour, not even in politics, do we seek to interfere in the appointment of each other's staff. It is a matter for the individuals.

On 25 January a media release was issued by the council. In that release it said a number of things in relation to Chris Marshall, including the following:

> 'The appointment of Chris Marshall and AP's initiative to empower itself as a provider of services in its own right has been met with nothing but opposition and bitterness by the Pitjantjatjara Council', Owen Burton said.

'The time has come for Anangu Pitjantjatjara to become the strong and effective body that it was intended to be, and Chris Marshall has been appointed to ensure that it does.

We need to become self-sufficient. We want to employ our own professional staff and we want advice from people who are fully accountable to Anangu and to us as AP's elected representatives.

The attitude of the Pitjantjatjara Council is a great disappointment, and very short-sighted. We have had a good relationship in the past and the council does not seem to have any regard for how important it is to maintain that relationship. In fact, the council as a whole appears too focused on the distribution of AP's finances, and has lost sight of the AP's role and commitment to Anangu.'

That is a very pertinent observation.

The Hon. T.G. Roberts: Do you think they should have a service provision agreement between them and the new legal team?

The Hon. A.J. REDFORD: Yes. Every piece of advice that has been given to them, from different sources, has said just that. I have not seen the advice that Mr Borick gave the AP Executive, but I suspect it would not be different from what Mr Rathman said way back in February before the agreement was signed. That is why this big question mark hangs over the signing of that document in the midst of some quite proper and reasonable advice being given by the department. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

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

LUCAS HEIGHTS NUCLEAR REACTOR

A petition signed by 60 residents of South Australia, concerning nuclear reactors at Lucas Heights and praying that this council will call on the federal government to halt the nuclear reactor project and urgently seek alternative sources for medical isotopes and resist at every turn the plan to make South Australia the nation's nuclear waste dumping ground, was presented by the Hon. Sandra Kanck.

Petition received.

VOLUNTARY EUTHANASIA

A petition signed by 104 residents of South Australia, concerning voluntary euthanasia and praying that this council will reject the so called Dignity in Dying (Voluntary Euthanasia) Bill; move to ensure that all medical staff in all hospitals receive proper training in palliative care; and move to ensure adequate funding for palliative care for terminally ill patients, was presented by the Hon. A.L. Evans.

Petition received.

CHILD SEXUAL ABUSE

A petition signed by 118 residents of South Australia, concerning the statute of limitations in South Australia for child sexual abuse and praying that this council will introduce a bill to address this problem, allowing victims to have their cases dealt with appropriately, recognising the criminal nature of the offence; and see that these offences committed before 1982 in South Australia are open to prosecution as they are within all other states and territories in Australia, was presented by the Hon. A.L. Evans.

Petition received.

FARMING

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I rise today to inform the chamber that the state government, in collaboration with industry, will put in place initiatives to help farmers who are facing their second successive year of production losses. This follows a productive meeting of the Adverse Seasonal Conditions Committee and follow-up talks today with the South Australian Farmers Federation (SAFF). Some farmers are experiencing difficulties caused by a range of seasonal conditions. Despite last year being a record in terms of grain harvested across the state, it was not so good in some areas. In the north-east pastoral districts people are doing it tough, with many reporting that their last good year was 1997 or 1998. In areas of the Murray-Mallee, frost last year devastated some crops. Crops in the area this season have been affected by lower than average rainfall.

The Rann government, through PIRSA, will work with the SAFF to establish a seed register, an agistment register and a fodder register, each of which will provide farmers with an easy-to-access list of suppliers. People wanting to retain their breeding stock need to find out quickly where they might be able to agist animals or source quality feed until conditions improve. For those farmers unable to harvest their own seed to replant next season, the seed register should help them locate suitable material. Many farmers have worked hard to reduce their risk to seasonal conditions, such as low rainfall and frosts, through measures such as diversification and improved management skills. The government will continue to monitor this season. While we know that seasonal rainfall is below average in many districts, it is too early to gauge the end of season result at this time.

For example, good rains sustained throughout the remainder of the season could still meet the state's average harvest yield. We have started assessing against the exceptional circumstances criteria to see whether an application for such a declaration is justified in some areas of the state. It should be pointed out that applications to the commonwealth for exceptional circumstances assistance can proceed without any formal declaration by the state government.

GLENSIDE HOSPITAL

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to patients absconding from Glenside hospital made earlier today in another place by my colleague the Minister for Health.

FREEMAN, Mr R.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to the appointment of the Chief Executive of the Department of Water, Land Biodiversity and Conservation made earlier today in another place by my colleague the Minister for Environment and Conservation.

QUESTION TIME

DRUGS SUMMIT

The Hon. R.D. LAWSON: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the South Australian Drugs Summit's recommendations.

Leave granted.

The Hon. R.D. LAWSON: Last year the Aboriginal Drug and Alcohol Council Incorporated and the National Centre for Education, Training and Addictions carried out research amongst indigenous people in metropolitan Adelaide who are injecting drug users. Over 300 such users were interviewed and case samples obtained: 21 per cent had overdosed, with 37 per cent of overdoses being intentional. The average age of users is about 32 years. Of the users, 93 per cent said that half or more of their group of friends also injected drugs. In this research, psychological dependence was measured using the severity of dependence scale (SDS).

Of the 133 who nominated heroin as the drug of most concern to them, 90 per cent of those people were likely to be dependent on the drug. Of 89 Aboriginal people who nominated speed as the drug of most concern to them, 77 per cent were considered dependent according to the SDS; and 58 per cent of participants were eligible to complete the alcohol audit, which specifies them at risk and also as harmful drinkers. This research was most alarming to the Aboriginal Drug and Alcohol Council Incorporated. The council was well represented at the recent Drugs Summit. They were also concerned about the prevalence of HCV infection amongst indigenous people in South Australia. The rate of notification amongst indigenous people is four times the rate of notification in the general population; 14 per cent of all HCV incident cases are Aboriginal, and 93 per cent of those cases are due to injecting drug use; 71 per cent are aged less than 30 years.

A number of recommendations were put at the Drugs Summit and were endorsed by the summit itself. Indeed, they were unanimously endorsed, and it was the view of the summit that the recommendations in relation to indigenous drug use in this city required urgent attention. I am aware that the Aboriginal Drug and Alcohol Council, through its director Scott Wilson, has been circulating information to all members, and I know that the research and also the recommendations will be treated seriously by all members. My question to the minister is: what steps is the government taking, as a matter of urgency, to address the recommendations of the Drugs Summit arising out of the research to which I have referred?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his very important question highlighting the problems associated with drug and alcohol abuse in the metropolitan area, and in regional areas as well. If the same sample survey were to be taken in our major regional cities, where we have high concentrations of indigenous people, I think the results would be similar.

Adelaide does seem to be the gathering point for a lot of hardened drug and alcohol abusers. We have a concentration of displaced people not only from within South Australia but also from Western Australia and, I suspect, the Riverland in Victoria. I have asked my department to try to identify the movement of people into the metropolitan area who are prone to what is regarded as 'living rough'—that is homelessness—and the sort of behaviour that leads to long-term alcohol and drug abuse, as well as poor nutrition and shelter deprivation.

I pay tribute at this stage to the work being done by Scott Wilson and Geoff Roberts in ADAC who have worked very hard over a long period of time to bring to the notice of legislators, at commonwealth and state level, the urgency with which solutions need to be found because of the growing numbers of abusers of drugs, alcohol and other substances within the indigenous community. The age at which the drug and alcohol abuse starts is another problem.

Another aspect of substance abuse that is not often highlighted is glue sniffing and solvent sniffing. I would not think that they would be the substances of choice but, with regard to people's backgrounds, they are the only materials that are available and cheap—if nasty. We do have a major problem Australia-wide and, in particular, with the questions relating to South Australia, with a growing number of people falling into the drug and alcohol abuse brackets. The severity of the problem is, I think, starting to impact on a whole range of families and on levels of crime within this state. Some drug pushers in the metropolitan area do not consider it good economic sense to sell drugs to young Aboriginal people because, financially, they are not well off. However, other drug pushers have decided that, if you quietly introduce young people to heroin, they will have to steal to feed their habit.

It is not only a problem of self abuse and self harm for the individuals in relation to the impact of drug abuse but also it impacts on the rest of society. Prevention is the first priority, and there are a number of programs that we can run across agencies. We need a suite of reforms within government to deal with prevention programs, including school retention rates, because truancy is where it all starts. It is where opportunities and choice for young Aborigines in society tend to drive young users into the belief that there are no opportunities for them in society. We need to ensure that we paint a picture that gives Aboriginal communities the feeling that there is a role and function for them in society. That means education and training will become the cornerstone and the key for prevention programs.

The drift of people from the remote regional areas to the metropolitan area is another causal factor. It is here that people meet their peer group (pushers, if you like) and are introduced to a drugs habit that needs to be fed. So, the new drug users and abusers come under the influence of those with an established drug habit. I am told that one of the reasons for the high rate of hepatitis C cases within the Aboriginal community is the sharing of infected needles. I am told that that is part cultural and partly due to a lack of education and understanding of how hepatitis C is transmitted. The government has to do more in terms of education and designing programs to deal with these problems.

In relation to what the government is doing at the moment, I have been talking to Geoff Roberts and Scott Wilson to determine what they see as part of the solution in respect of dealing with and rehabilitating those people affected. Their recommendation is to have a detox centre located in the metropolitan area, but there is some controversy as to its geographical siting. The other alternative is to have a detox centre within a reasonable radius (say, 50 kilometres or 60 kilometres) of the metropolitan area so that it is accessible and manageable in relation to programs for visiting specialists to treat people in those centres.

Apart from bricks and mortar, there are a number of other aspects to the rehabilitation centres that require funding across agencies. I have been speaking to the Drug and Alcohol Prevention Foundation based in Canberra which has funding available for special projects. We have to be careful that we do not pick up too many programs that have recurrent funding, and some of the limits and guidelines that are set make it difficult for us to match the guidelines with applications for the program. Funding for new initiatives is easier to

get than funding for continuance of programs already running within states.

I am working with the foundation and ADAC to try to get a program for education and prevention of Hepatitis C within the prison system, where it is rife. It is a problem that comes, again, from sharing infected needles, and when people are released into society they spread it throughout the general community. That is not just a South Australian problem: it also occurs with people released from institutions in other states. We are aware of the problems recorded at the alcohol and drugs summit. Those people who attended the alcohol and drugs summit were forthright in their presentations. They put a lot of material before the committees for resolution and recommendation. As a government we will be picking them up across agencies and working through them as we can.

UNIONS, BARGAINING FEES

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Leader of the Government a question on the subject of bargaining fees.

Leave granted.

The Hon. R.I. LUCAS: In Victoria, I am advised, the ETU has been successful in having a clause inserted in an enterprise agreement for bargaining fees. This clause requires non-union members to pay a bargaining fee or tax to the union.

The Hon. R.D. Lawson: Even the dead ones in the AWU.

The Hon. R.I. LUCAS: I am not sure about that. In the past week, the United Trades and Labor Council has announced that it wants the South Australian Labor government to legislate for bargaining fees, that is, the United Trades and Labor Council wants South Australian workers to face a $500 fee or tax because they have decided not to join a particular union. There are many views right across the industrial spectrum on this particular issue.

The Hon. T.G. Roberts: I wish Tony Abbott would stay out of the state.

The Hon. R.I. LUCAS: Well, he is a federal minister and we are part of a federation.

The Hon. T.G. Roberts: Well, since he left, every question in both houses has been on industrial relations, wages and conditions.

The Hon. R.I. LUCAS: Even Labor state premiers have argued that this bargaining fee or tax should not exist. For example, one of the South Australian—

Members interjecting:

The PRESIDENT: Order! There is too much audible conversation in the chamber. The Leader of the Opposition has the floor.

The Hon. R.I. LUCAS: One of Premier Mike Rann's best mates, New South Wales Premier Bob Carr, has been quoted in October 1999 as saying:

> You can't put on tax on other members of the work force and the state can't require the collection of union fees from non-unionists.

There is legislation before the federal parliament at the moment to ban bargaining fees, and that has been opposed by the Labor Party under the leadership of Mr Crean. The federal Minister for Workplace Relations has made a number of statements in relation to this legislation and the issue of bargaining fees. He highlighted the inevitable conflict of interest for the Australian Labor Party when, clearly, additional bargaining fees or taxes going into unions is a conduit directly back into Labor Party coffers by way of either sustentation fees or donations from the union movement, such as the AWU.

The Hon. R.K. Sneath interjecting:

The Hon. R.I. LUCAS: No, not at all—such as the AWU and others, as donations to the Australian Labor Party. Mr President, of course, you would be aware that the Premier has made much of conflicts of interest of members of parliament, he has made much of openness, transparency and accountability in relation to his new government, and this will, of course, be for him an important test. My question to the Leader of the Government is: will he and will the government oppose non-union members being forced by unions to pay bargaining fees or taxes of about $500, as is currently contemplated by the United Trades and Labor Council—which measure is supported by a number of prominent union background Labor members (as we have seen in the material distributed in our boxes in the past 24 hours) in this current caucus?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those questions to my colleague, the Minister for Industrial Relations, who has responsibility for those matters. The suggestion that the Leader of the Opposition is making, I assume, is coming from the submission made to the inquiry that I understand is being headed by the former Commissioner Stevens in relation to this matter. I think we could all well understand why unions would be concerned that, given the considerable expenses and effort to which they go to win better conditions for their members—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I am a member of several unions.

The Hon. R.I. Lucas: Which ones?

The Hon. P. HOLLOWAY: The member can go and look in my register. But, for the member's benefit, the ASU is one (it is a very good union, and I am sure my colleague Mr Gazzola knows of it) and I am also a member of APESMA. I have been very proud to be a member of a trade union all my working career. The reason why I joined, and the reason why most other people here do so, is that we appreciate the value that trade unions bring to their members in getting better conditions. I think it is quite understandable—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —that trade unions, which go to considerable expense and effort to seek to win better conditions for their members, would resent those people who, effectively, freeload on those conditions. The UTLC, as I understand it, has made a submission to the inquiry—as, indeed, will other sectors of business and the community—and they will be considered by the government in due course. But if the Minister for Industrial Relations wishes to add further to my answer, I will bring back a response.

WATER SUPPLY, ANGAS BREMER VALLEY

The Hon. CAROLINE SCHAEFER: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Environment and Conservation, the Minister for the River Murray, the Minister for Gambling, and most other things, a question about the water supply to the Angas Bremer Valley.

Leave granted.

The Hon. CAROLINE SCHAEFER: I have been informed today that, as a measure to assist the opening of the Murray mouth, the water level of Lake Alexandrina is to be dropped by at least one metre next week without any forewarning and without any consultation with surrounding landowners or irrigators. This move could have disastrous ramifications for irrigators and, indeed, the ecology of the lake. Those most affected live within the area of the Angas Bremer water catchment area. The management plan of the Angas Bremer Water Catchment Board is being used as a role model for efficient water use by the Murray-Darling Commission. My questions are:

1. Is it a fact that such lowering is to take place and, if so, why have those most affected not been informed?

2. Why has the Angas Bremer Water Catchment Board not been consulted?

3. Will the minister, as a matter of urgency, come clean and let those people know what they are going to do with the water levels in that lake?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take those important questions back to the Minister for Water Resources and bring back a reply.

PETROLEUM RESERVES

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about South Australia's petroleum reserves.

Leave granted.

The Hon. R.K. SNEATH: There has been some recent concern about the status of South Australia's petroleum reserves and the need to explore and develop new resources in this state. The Great Australian Bight has been identified as a possible future source of petroleum, with regional areas expected to be beneficiaries of funds spent on exploration. However, some concerns have been raised as to the possible impact on the environment from any exploration in the bight. What are the costs and benefits of petroleum exploration and development in the Great Australian Bight in South Australia?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): During the period 2001-06, a $69 million exploration program is expected in the Great Australian Bight within existing exploration petroleum permits. I am pleased to say that five more exploration blocks were released in April 2002 for exploration. If discoveries are made, royalties are paid to the commonwealth, although the operations are administered by Primary Industries and Resources South Australia with consequent commonwealth funding.

During the exploration phase, direct benefits to the state are generally limited to ancillary roles in supporting the exploration. These are primarily in catering, personnel transport, fuel and consumable provisioning through regional ports such as Port Lincoln and Ceduna. Should commercial quantities of oil be discovered, the crude oil is likely to be transported by tanker directly from the offshore well sites to refineries. This may include refineries in South Australia. Such oil production is likely to provide a significant offset to Australia's future downturn in oil self-sufficiency, particularly in fuel for the transport sector.

Any commercial discoveries of natural gas would provide South Australia with a much needed alternative energy source to the supply from the mature Cooper Basin and potential suppliers from interstate. It is extremely important that this state discovers new sources of gas, because I remind members that the royalties that this state has received from onshore gas supplies in the Cooper Basin are considerable. Given the maturity of that field, when they run down that will have significant consequences for this state. I remind the council that the piping of such gas onshore may well provide new energy sources to regional centres as well as Adelaide.

Significant numbers of jobs are created in the process of construction and operation of both the pipeline and related facilities, as local contractors and services will be required. Once constructed, these proposals are likely to stimulate regional development opportunities on Eyre Peninsula, based on a long-term competitive gas supply. Any commercial developments offshore will assist in focussing global investment interest in South Australia and adjacent waters. The state has a number of frontier basins to which we are keen to attract investment, due to the low levels of local production. Petroleum activities in the Great Australian Bight provide opportunities to gather environmental baseline information in this area of scant data. That is really I think—

An honourable member interjecting:

The PRESIDENT: Order! Mr Cameron is uncharacteristically exuberant today. I ask him to come to order.

The Hon. P. HOLLOWAY: As well as the exploration being important for the economic development of this state, it also has the benefit of obtaining baseline environmental data. This has already been the case in respect of a survey in 2000-01 which included an active program to gather information on marine animals and sea birds.

Any exploration or production activity has potential or actual impacts on existing users or uses of an area. In the marine environment, Australia has an excellent record of environmental management of such impacts. Processes are in place under the commonwealth Environmental Protection and Biodiversity Conservation Act and the Petroleum (Submerged Lands) Act which provide regulatory controls to protect environmental values. These processes include significant consultation with stakeholders to identify and manage potential impacts.

The protection of threatened species, particularly the southern right whale, and the values of the Great Australian Bight Marine Park are of key interest to explorers as well as those with environmental interests. These two sectors should not be considered as mutually exclusive. The paucity of data on potential impacts often precipitates erring on the side of caution, with potential that funding and support for such baseline studies may be provided by the petroleum industry. In that way I believe that this very important industry will be not only of great significance to the state but also can contribute to the environment of the state by providing the data we need to protect marine species.

PRISONS, ANGER MANAGEMENT PROGRAM

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question relating to anger management programs in South Australian prisons.

Leave granted.

The Hon. IAN GILFILLAN: Anger and aggression management and the prevention of violence are important goals within our society, thus reducing the incidence of related offences both within and outside prison. Recent

studies have confirmed that high levels of anger exist in our prison populations. A recent Australian Institute of Criminology paper entitled 'Anger management and violence prevention: Improving effectiveness', investigates two Australian jurisdictions—South Australia and Western Australia. Each has similar programs and practices. It was noted that anger management programs tend to be less effective where:

(a) there is poor motivation from the participants,
(b) there is a high complexity of program content;
(c) there is a low program integrity; and
(d) there are limited opportunities to practice the skills learned.

The Hon. A.J. Redford interjecting:

The Hon. IAN GILFILLAN: In the context of South Australian Correctional Services, the paper suggests—it could be a help to us: that is quite right—that current anger management programs face two difficulties.

The Hon. A.J. Redford interjecting:

The Hon. IAN GILFILLAN: But we are not in prison. First, they lose their effectiveness where offenders are not motivated to participate fully in the program and, secondly, those offenders who choose to participate in a positive way are impaired by the shortness of the programs. This is the reflection made by the paper on the South Australian situation.

The Hon. T.G. Roberts: They get angry about that.

The Hon. IAN GILFILLAN: You might. Current programs in South Australian Correctional Services run for 20 hours and generally consist of 10 two-hour sessions. There is a considerable amount of material to get through in the program and squeezing it into 20 hours decreases the benefit of the program to offenders. It is internationally recommended that such programs should run for 100 hours compared with only 20 hours in our prisons. My questions are:

1. Does the minister agree that effective anger management programs for offenders are an essential responsibility of the Department of Correctional Services?

2. Does the minister agree that current anger management programs are too short to properly help offenders with anger management problems?

3. What is the percentage of offenders who respond positively to current anger management programs?

4. What will the minister do to involve those offenders who are not motivated to participate in anger management programs?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his very important question in relation to management in prison of prisoners who have difficulty holding in their anger, and then release it at times when it takes prison officers by surprise, in some cases. I am aware that courses are run in both the public and private systems in South Australia. I cannot answer the question in relation to the percentage of participants, but I do know, as the member has pointed out, that attendance is voluntary, as it is in many other management programs run in prisons, and in many cases those who do not avail themselves of the programs are those who most need to avail themselves as a priority.

Our policy is to try to involve as many prisoners as possible in behavioural management programming, including anger management, education and training and the problems associated with literacy and numeracy. So, we are encouraging learning programs within prisons. If the anger management programming is, as the honourable member suggested, being cut, restricted or does not have the design features required to get the results that the honourable member suggests, I will certainly make inquiries within the department about the current program it is running in both the public system and in Mount Gambier. I did attend part of an anger management program in Mount Gambier—

The Hon. T.G. Cameron: Is that why you're such a mellow man?

The Hon. T.G. ROBERTS: I don't think so. The program had a high attendance level and the participation rates appeared to be very good. If I had been one of the participants, I would have been brought to anger through some of the methods used to test the degree of individual acceptance of the program. I will refer those areas of the question to which I do not have immediate answers and bring back a reply.

CHILD ABUSE

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the minister representing the Minister for Social Justice a question about requests for child abuse data.

Leave granted.

The Hon. A.L. EVANS: I recently received a letter from a community group that has been endeavouring to obtain statistical data from the Department of Family and Youth Services in relation to child abuse. The group has to date been unsuccessful. I understand, from information provided by this group, that the Department of Family and Youth Services releases information pertaining to family type and the relationship of the abuser to the child in question but that the categories are limited to parent and non-parent. The main concern of this group is that these two categories are too broad. If any meaningful child protection review is to be carried out, accurate statistics need to be gathered and made available to the community on all issues relating to children, including child abuse. My questions are:

1. Will the minister confirm whether statistics are collected for categories such as biological mother/father, adoptive mother/father, step-parent, de facto mother/father, grandmother/grandfather, uncle/aunt? If so, are these statistics being released to the community upon request? If not, why not?

2. Does the minister provide to the community the statistics on the sex of the perpetrator of child abuse? If not, why not?

3. Of the categories reported, does the minister collect data on the rates of child abuse in relation to the type of family living arrangements, such as single parent household headed by the mother, single parent household headed by the father, step-parent family, adoptive family? If not, why not?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take those important questions on notice, refer them to the minister in another place and bring back a reply. Just on a personal level, I sat on a select committee that looked at a whole range of issues associated with those questions. Although the information is not current, many of the principles involved in the report would still remain. Evidence was taken, although I am not sure whether the report was tabled, in the late 1980s or early 1990s. It may be in the library.

The Hon. A.J. Redford: Have you been here that long?

The Hon. T.G. ROBERTS: I have. The Hon. John Burdett, amongst others, was on the committee and I think the Hon. Carolyn Pickles chaired it. But if the evidence

exists, and the table clerks might be able to advise you of that, it would be a good place to look at some of those areas of concern to the honourable member. Certainly, we took evidence from a range of people who did come in contact with children at all levels.

REGIONAL IMPACT STATEMENTS

The Hon. J.S.L. DAWKINS: My question is directed to the Minister for Regional Affairs. Was a regional impact statement prepared by the government before the decision was taken to cut the number of road gangs in unincorporated areas of the Far North?

The Hon. T.G. ROBERTS (Minister for Regional Affairs): Mr President—

The Hon. A.J. Redford: I'd check that.

The Hon. T.G. ROBERTS: I will be doing that. I have described to the council on other occasions the way in which we make regional impact statements, but, as my memory is not as good as perhaps it ought to be, I will have to take that question on notice and bring back a reply.

The PRESIDENT: The Hon. Mr Stephens has a supplementary question.

The Hon. T.J. STEPHENS: Will the minister give the council an approximation as to how many regional impact statements have been prepared to date?

The Hon. T.G. ROBERTS: I thank the honourable member for his question in relation to regional impact statements. The government is committed to understanding the needs and interests of people living in regional South Australia. The purpose of regional impact statements for cabinet decisions is to—

Members interjecting:

The Hon. T.G. ROBERTS: Standing orders allow me—

Members interjecting:

The PRESIDENT: Order! The honourable member has obviously set the trap. The minister will have to take the consequences.

The Hon. T.G. ROBERTS: I have been asked the question, Mr President. The Office of Regional Affairs has developed guidelines for regional impact statements for cabinet submissions, and the *Cabinet Handbook* is being revised. Even though the Office of Regional Affairs has been established, the former office of regional development has informed me that in the vicinity of 30 regional impact statements have been prepared as part of cabinet processes. The Office of Regional Affairs has just been established and it has formed a small project team to develop further the process of regional impact statements and public assessments to strengthen the government's commitment to regional consultation.

I had to read that to provide the extra information that, I am sure, the honourable member will take with him when he is out in the regions describing why he asked the question. I suspect that he might even issue a press release.

The PRESIDENT: The Hon. Ms Laidlaw has a supplementary question.

The Hon. DIANA LAIDLAW: Through all the laughter, I did not necessarily hear the accurate answer. Did the minister say that four statements had been prepared by this government and, if that is so, could he advise on what matters those four were prepared and is he prepared to provide copies of those statements to the council?

The Hon. T.J. Stephens interjecting:

The Hon. T.G. ROBERTS: No, I will not read the introduction again. The laughter must have been very loud on that side of the council because I did say that 30—

The Hon. Diana Laidlaw: But then there were another four?

The Hon. T.G. ROBERTS: No.

An honourable member: 'Prepared for'.

The Hon. T.G. ROBERTS: I think it was, 'prepared for'. It might have been 'for he's a jolly good fellow'; I am not too sure. The number was 30.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! I think that there are salutary lessons about interjections in this instance.

MURRAY RIVER FISHERY

The Hon. D.W. RIDGWAY: I would like to ask the Minister for Agriculture, Food and Fisheries a question about the river fishery.

The PRESIDENT: Is the honourable member seeking leave to make an explanation?

The Hon. D.W. RIDGWAY: No; I will just ask the question. Will the minister confirm that six licences to fish for European carp by former commercial fishers on the Murray River are being offered at a cost of $100 000 each, and will the minister offer some advice on how these fishers may raise the money as he has taken away their livelihoods?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Two options were given to the river fishers: first, they could take the ex gratia payment that was offered based on their average income over the past three years and exit the fishery; or, they could continue in the fishery for the remaining 12 months and have priority for any new fishery that was restructured after 30 June next year, that is, a fishery that would target European carp, bon bream, yabbies and other exotic species in the river. They would have the priority to do that. But no additional charge was proposed other than a licence fee for those people. Of course, for those who were continuing in the fishery, the ex gratia payment was reduced by 50 per cent. That was based on 50 per cent of the offer made to each individual fisherman.

Perhaps I should explain to the council that the river fishery is unusual compared to other ocean fisheries in that, of course, each fisher has access to a particular reach. There are 30 separate reaches on the Murray River covering about 35 per cent of the river. Each of these reaches are separate and, of course, that is why the value of those reaches, in commercial terms, does differ considerably, depending on their value to the fishermen. They are not all the same. Whereas, of course, if you had a licence to fish in the sea, then, clearly, everyone can fish in the same area essentially, subject to quotas and other arrangements. But, in the river, each of the 30 river fishers are restricted to a particular reach. That is why the ex gratia payment offers that were made to the 30 river fishers were all different. I repeat that for those who wish to continue in the fishery from this year onwards—and fishers have until 30 September to decide—they will be eligible for 50 per cent of the ex gratia payment, and those who take up that second option will be given priority to enter the new fishery that will exist after 30 June next year.

HEALTHY WAYS PROJECT

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing Minister for Health, a question about the Healthy Ways Project.

Leave granted.

The Hon. J. GAZZOLA: I understand that the Healthy Ways Project has been initiated to reduce tobacco use and promote healthy eating among Aboriginal families in South Australia. Can the minister highlight the aims of the Healthy Ways Project to address the high incidence of Aboriginal maternal smoking and the link with child morbidity, pre-term birth and other associated risks?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question. I noted his attendance at the Drugs Summit held in Adelaide recently, and his interest in it. But I also noticed him outside—having a quiet smoke—on quite a number of occasions.

The Hon. T.G. Cameron: He's trying to give it up. It's a good question coming from a smoker.

The Hon. T.G. ROBERTS: It is, and I know that the honourable member is trying very hard to change his ways. He was trying until 4 o'clock this morning to give it up!

Members interjecting:

The PRESIDENT: Order! The minister will confine himself to the question.

The Hon. T.G. ROBERTS: The high incidence of smoking within the Aboriginal community is of concern, and campaigns are being planned and waged to try to turn that around. There is also a high incidence of alcohol abuse during early pregnancy which is also of concern. Both smoking and alcohol are recognised as the biggest abusers of health, within the whole range of drugs that are available.

We tend to underestimate the damage caused by tobacco and alcohol. The Healthy Ways Project is a South Australian Aboriginal health partnership-funded project between the Department of Human Services and the Department of Education, Training and Employment. It was initiated in 2001, and the aim of the project is to improve the health, education and wellbeing of Aboriginal community members and, in particular, pregnant women, young women of child-bearing age, infants and preschool children and primary and secondary school students.

It is anticipated that this will be achieved by applying community capacity building methods to improve education health outcomes with a focus on reducing tobacco use and improving nutrition. Local community members are consulted and drive the direction for the project in their particular location. In the first year, 2002-03, the project will work in the following communities: the Western Eyre region, that is, the Yalata/Oak Valley area; the Far North Western region of Coober Pedy; and Oodnadatta.

Initial consultations for the second phase communities of Marree, Whyalla and the Anangu Pitjantjatjara lands have begun. The process for these communities will be for the employment of local people to begin to build the community profile for the area, and a questionnaire has been produced to assist in this process. We hope that there will be early results because of the high incidence of substance abuse, particularly alcohol, in all communities.

ROADS, ADELAIDE TO CRAFERS

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question about arrester beds on the Adelaide to Crafers highway.

Leave granted.

The Hon. SANDRA KANCK: On 5 March 2000, the Adelaide to Crafers highway was opened. As part of the upgrade to road transport that the new road provides, arrester beds were constructed on the down track. These gravel arrester beds appear to have recently been renovated. My questions are:

1. What work has been carried out on the arrester beds on the Adelaide to Crafers highway since it opened?
2. Was the work undertaken foreseen at the time of the new section of the road opening?
3. Was there any problem with the original design or construction of the arrester beds?
4. What was the cost of the work undertaken?
5. Will the arrester beds require further renovation or maintenance and, if so, when?
6. Was adequate signage clearly visible to alert all road users to the non-functioning status of the arrester beds at all times during the maintenance operation?
7. How long were the arrester beds unavailable for use?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Having used that highway quite regularly, I was quite surprised to see what used to be referred to as 'safety ramps' renamed 'arrester beds'. I was not quite sure what an arrester bed was. It sounded like a Correctional Services term—

An honourable member interjecting:

The Hon. T.G. ROBERTS: Yes, that's right—so I avoided them. The honourable member's question is fair and reasonable, and it is important in relation to that section of the highway. I have also noticed that a lot more trucks are using low gears than previously was the case, and there seems to be—

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: Yes; I think the use of brakes is now down to a very low level. I will take the honourable member's questions on notice and bring back a reply as soon as I can.

COURTS, SENTENCING

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Attorney-General, questions regarding consecutive sentencing and proportionality.

Leave granted.

The Hon. T.G. CAMERON: The 55 year sentence with a 40 year non-parole period received by the Sydney gang rapist could hardly have escaped the attention of any member in this place. The offender was sentenced on 21 charges arising from the three gang rapes that he committed over a three week period in 2000. This equates to an 18 years and four months sentence with a five-year non-parole period for each rape.

The judge in this case decided to order that the sentences be served consecutively. If these sentences were served concurrently, the offender would be eligible for parole in

2015 and not 2051, as is the case now. Eighteen year sentences for serious offenders are not uncommon. Therefore, concurrent sentences, while necessary in some cases in the interests of justice, can be seen as giving some serious offenders immunity from repeat attacks. If offenders commit seven serious offences, they will be sentenced for only one or two, because the rest will be served concurrently.

The logical conclusion is that, to prevent sentences of more than 100 years, which may be unjust, judges may have to give reduced sentences for some crimes. By the principle of proportionality, however, this may set a precedent for a single-offence offender to receive a much reduced sentence for their crime than they currently would. My questions are:

1. In the Attorney-General's opinion, how can one reconcile consecutive sentencing with proportionality of sentencing?

2. Will the Attorney-General guarantee that the government's proposed changes to the criminal sentencing law will not lead to greatly reduced sentences for single crimes because of proportionality to consecutive sentences?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take those important questions to the Attorney-General in another place and bring back a reply.

CRIME PREVENTION OFFICERS

The Hon. T.J. STEPHENS: I seek leave to make an explanation before asking the Minister for Regional Affairs a question.

Leave granted.

The Hon. T.J. STEPHENS: On Monday, I asked the minister about crime prevention services being cut in Port Augusta. Since then several people have telephoned to remind me that the crime prevention officer's position has been cut not only at Port Augusta but also at Port Pirie, Port Lincoln and Whyalla. As a result, the roving crime prevention function of these positions to assist the local communities of Ceduna and Coober Pedy has also ceased. This government is supposed to be hot on law and order. Certainly, crime prevention and law and order were key pre-election priorities for a future Labor government. The government has justified the cuts to crime prevention officers as money that has been diverted into sentencing—but surely prevention is a better, more cost-effective use of funds.

The previous Liberal government allocated $4.2 million over three years for locally based crime prevention programs in six regional cities and 12 metropolitan centres. Community based crime prevention programs were working very well, particularly in the Upper Spencer Gulf. Labor has cut this fund from $1.4 million per annum to $600 000 per annum. During estimates, the Minister for Regional Affairs pointed out that he was not responsible for drafting the budget program for that other portfolio area. However, he did state that he had responsibility for being able to get information to ministers' officers on a whole range of problems. He also repeatedly stated that he had responsibility to explain to constituents how a particular decision will impact on regional areas. Further, he does take responsibility for working across government for communities to try to find alternative funding regimes. Given these acknowledged responsibilities, my questions to the minister are:

1. Why were the crime prevention programs in the six regional cities totally axed while the 12 metropolitan services were left largely unscathed?

2. Given the obvious justification for maintaining crime prevention strategies in, say, Whyalla as compared with suburban Burnside, why did the minister not stand up for the regional cities and demand budgetary treatment equal to the metropolitan centres?

3. Will the minister explain to the crime prevention officers and the respective communities why the successful local programs were cut?

4. How does the minister intend to assist communities to find alternative funding for their important programs?

The Hon. T.G. ROBERTS (Minister for Regional Affairs): I thank the honourable member for his questions in relation to the budget cuts that the government found necessary to make to the crime prevention programs when it drafted its first budget after gaining the Treasury bench after being elected. The Port Augusta program was successful—there is no doubt about that—and others in other centres were running successfully, but my understanding is that others were not running successfully. I have asked for a report to differentiate between the centres where successful programs were being run and why they were successful. I know those that had broad community support and broader community participation seemed to be more successful than those that relied on just the crime prevention officer's role itself.

We may learn some lessons on perhaps how to cover the funding gaps in relation to funding principal officers in country areas. We may be able to use police more effectively, and there may be other ways in which we can carry out crime prevention within the existing budget. I have not got the answers to the questions but, as a result of the honourable member asking the questions, I will do a comparison between the country and city based programs and what programs we can run within the existing budget services to cover the gaps for those programs which have run successfully and which would be high on the priorities for local government officials within those country areas. I will take on notice those questions that I have not answered and bring back a reply.

NORTH ADELAIDE

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Urban Development and Planning, a question about the North Adelaide state heritage area.

Leave granted.

The Hon. DIANA LAIDLAW: I highlight that the member for Adelaide, Jane Lomax-Smith, and the Director of the National Trust of South Australia, Mr Rainer Jozeps, have called for the whole of North Adelaide to be listed as a state heritage area. I should immediately declare my interest, and a number of prejudices. I am a resident of North Adelaide. I own a town house that has been built in the past 15 years. I am also a member of the National Trust, but I am a fan of a mix of well designed, modern structures with older structures—and I detest the pseudo bluestone structures that are being built to meet the pressures from heritage zealots in North Adelaide and elsewhere.

Mr Jozeps claims that all North Adelaide's existing buildings are worth preserving (which is a view also held by the member for Adelaide). This includes residential dwellings, community facilities and commercial enterprises, notwithstanding when they were built, to what design or standard, with what materials, or the relationship of the dwelling or shop to adjacent structures or the neighbourhood

character. Mr Jozeps has emphasised that blanket heritage protection would not stop development but, like the member for Adelaide, he fails to note that, with heritage listing, notwithstanding the heritage value of the property, any development could be progressed only under the most restricted circumstances within narrow parameters, with higher administration costs and an abundance of bureaucratic interference.

Adelaide City Council already has many properties that are heritage listed but, certainly, I do not believe that there are enough. It also has demolition controls, which require that no building is permitted to be demolished until approval has been given for the replacement structure. However, the council would appear to be vulnerable to the blanket heritage zone pressures, because it has been slack in establishing guidelines as a basis for assessing all new and renovated structure applications. I understand that this matter is now under active consideration by council officers. It is important that it is advanced promptly and, equally, that more energy, education and resources are put into both listing individual heritage properties and recognising streetscapes.

Is the minister aware of, and does he support, the call by the member for Adelaide and the Director of the National Trust to list all of North Adelaide as a state heritage zone? Does the minister intend to promote the implementation of a state heritage zone across North Adelaide by intervening in the process already under way, with his concurrence, for the Adelaide City Council to prepare a new development plan for the council area?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the Minister for Environment and Conservation in another place and bring back a reply.

MEMBER'S REMARKS

The Hon. A.J. REDFORD: I seek leave to make a personal explanation.

Leave granted.

The Hon. A.J. REDFORD: In another place today in question time, the Hon. Kevin Foley, the Treasurer, made this statement in relation to the issue of insurance:

> Queensland put some in but at the minor end of the scale, and it has been commented on by people such as Robert Gottliebsen and others in the national press.

He then went on and said, in response to an interjection from the Hon. Patrick Conlon—and what he said is not recorded:

> Yes, this is the one the member for Bragg said would not work and I think the Hon. Angus Redford in another place said that it was not worth anything, would not do anything, was really a waste of time—window dressing.

Just so that members understand, the legislation in Queensland that he is referring to is called the personal injuries proceedings legislation which abolished exemplary damages, restricted costs, had a maximum of three times loss of average earnings, abolished jury trials and restricted advertising. I understand they have done nothing like the recreational services bill that is currently before the parliament. In that respect, I was not making any comment in relation to anything to do with any Queensland legislation. First, I was talking about the recreational services bill; and, secondly, I never made any comment about window dressing or anything to that effect. I suggest to the Treasurer that he stick to cooking the books and not verballing me.

The PRESIDENT: Order! You are debating the issue when you go to that extent, the Hon. Mr Angus Redford. I accept that you deny the statements attributed to you.

SHOP TRADING HOURS (MISCELLANEOUS) AMENDMENT BILL

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

PITJANTJATJARA COUNCIL

Adjourned debate on motion of Hon. R.D. Lawson (resumed on motion).

(Continued from page 767.)

The Hon. A.J. REDFORD: Before lunch I was talking about the motion concerning the Pitjantjatjara Land Rights Act. On 28 January this year a letter was published in the *Advertiser*, said to be signed by persons including Mr Thompson. A press release was immediately issued by Peter Hannon of Duncan Basheer Hannon to the following effect:

> The Director of Anangu Pitjantjatjara, Mr Kawaki Thompson has sought the advice of Duncan Basheer Hannon in relation to the Open Letter authorised by the Pitjantjatjara Council and published in the *Advertiser* today.
>
> The letter is said to have been signed by persons including Mr Thompson. This statement is false and misleading. Mr Thompson has not signed such a letter and does not support its demands or the petition.
>
> Duncan Basheer Hannon Managing Partner Peter Hannon has advised Mr Thompson that the false statement claiming Mr Thompson is a signatory on the open letter is a malicious falsehood and is defamatory of Mr Thompson.

That letter was followed by another letter to Mr Rathman correcting a number of errors in the letter from the Pitjantjatjara Council. So the form continues; and there are other examples. I have a copy of a letter written to the Pitjantjatjara Council by Duncan Basheer Hannon on behalf of Mr Thompson on 1 February last which states:

> However, our clear and direct instructions from Mr Thompson are that he did not agree to sign or endorse the open letter and further, that he was put under unreasonable and inappropriate pressure to do so by those representing Pitjantjatjara Council who visited him at the hospital.
>
> He instructs us that on that day Gary Lewis was accompanied on the visit by Mark Ascione and Gertrude Stotz. We are instructed that after the private meeting between Mr Lewis and Mr Thompson, both Mr Ascione and Ms Stotz spoke to Mr Thompson and placed quite inappropriate pressure on him to sign or endorse the letter notwithstanding he had already indicated that he did not wish to do so.
>
> The distress caused to Mr Thompson by the visit was such that, on the evening of Sunday 27 January 2002, he contacted Mr Marshall by telephone and complained to Mr Marshall about the visit by Mr Lewis, Mr Ascione and Ms Stotz. Mr Thompson advised Mr Marshall that he was concerned that renewed attempts to pressure him to sign or endorse the open letter would be made by a follow-up visit by the same persons the next day.

The last paragraph states:

> Turning to the matter of our involvement, we do not assume anything in relation to the clients for whom we act.

It is a pity that Mr Ascione did not adopt that theory. It continues:

> We have been specifically and directly instructed to act for Anangu Pitjantjatjara and Mr Marshall at a face-to-face meeting with

the chairman and another member of the executive of AP. Those instructions have been confirmed in writing by the Chairman of AP.

Nothing could be clearer than what Mr Hannon has outlined in that letter, despite what the Pitjantjatjara Council says. I note that proceedings have been issued by Mr Lewis and Mr Lester against Mr Marshall. Mr Stephen Kenny of Camatta Lempens is acting for the plaintiffs in the Supreme Court, and those proceedings were issued on 12 February this year.

I have another memo from the Pitjantjatjara Council Legal Department, from Mark Ascione, Principal Legal Adviser, to Kawaki Thompson, Director of AP, which states:

I am advised from Gary Lewis, Chairman of Pitjantjatjara Council, that both himself and Yami Lester have taken actions in the courts to prevent Chris Marshall, Management Consultant engaged by DOSAA, from activating any of his 'restructuring' AP and forcing the closure of Pitjantjatjara Council. We have been in contact with Terry Roberts, Shadow-in-waiting Minister for Aboriginal Affairs will release funding to AP in the very near future.

The minister has been verballed this time. It goes on:

As a consequence we will commence work on 18 February as per our provider agreement to perform our responsibilities as soon as possible.

If you have any further queries please do not hesitate to contact me.

Cheers.

That stands in stark contrast to the following correspondence. This is a memorandum to the community of Anangu Pitjantjatjara people signed by the Chair and the General Manager, Owen Burton and Chris Marshall respectively. It states:

We are aware that the communities on the AP Lands have received a notice from the Principal Legal Officer at the Pitjantjatjara Council advising that the Council recommenced providing legal services yesterday.

And that is the memo I just read out. It continues:

We are writing to advise that there are several problems with Mr Ascione's memo and you should be aware of the following facts:

- AP will decide how its money is to be used—not the Pitjantjatjara Council, and AP has already decided it will be employing its own legal and anthropological staff.
- The new AP positions of Principal Legal Officer and Senior Anthropologist have been advertised and expressions of interest are already being received.

The letter goes on and directly contradicts, yet again, another statement made by the Pitjantjatjara Council. At the end it says:

All communities can be sure that, despite the attempts by Mr Ascione and the Pitjantjatjara Council chairman to stop us, AP will be employing its own legal and anthropological staff. The future will see a stronger AP and better services available to all traditional owners.

Every single person in this country has a right to choose their own legal advisers, and no other lawyer has any right at all to interfere with that freedom of choice that AP wishes to exercise. In fact, some of the conduct on the part of Mr Ascione and the Pitjantjatjara Council deserve closer examination. There is other correspondence, but I will not go into too much detail except to say that I also have a copy of a letter from Mr Brian Butler of ATSIC to the Premier, dated 29 April 2002, expressing concern about the cancellation of an order to release funds. I assume that that was a decision—and I am not making any criticism of the minister—in relation to some legal funds. Mr Butler states:

Further, I have been informed in a telephone call from an adviser to Minister Roberts that the minister intends to transfer funds from DOSAA to the Pitjantjatjara Council for the duration of the review he has announced into funding and governance matters on the lands. I take this opportunity to point out that there has been no formal consultation with ATSIC on the matter of the so-called 'eminent persons' review of funding and governance for AP. As the principal provider of funding to AP, and in keeping with the spirit of the agreement entered into by both parties 12 years ago, we must protest at this clear lack of consultation and communication on the part of the minister.

I must say that I have a lot of sympathy for the minister because this is a very difficult issue, and I am not reading that out to be in any way critical. It just demonstrates the area of confusion in which the minister has had to operate. Members will be aware that I raised this issue about Mr Ascione in parliament on 11 July. Subsequently, I received a letter from Mr Chris Kourakis QC, President of the Law Society, and I understand that a copy of that letter or a similar letter was sent to my colleague the Hon. Robert Lawson and every other lawyer who happens to be on my side of politics in this parliament. I am grateful for them informing me of that.

In that letter Mr Kourakis says that I have made some serious allegations; that the allegations should have been made before the Disciplinary Tribunal; that there had been no complaint to the conduct board; that, as a consequence, it was difficult to understand the questions and explanation put by me; that I participated in a parliamentary attack on a fellow South Australian without giving him the benefit of the legal process provided by statute; that the minister's assessment was that Mr Ascione had done his best to protect what he saw as the interests of his client; that the attack was disproportionate; and that I should apologise.

The first thing I will say is that I will not apologise. The second thing I will say is yes, the attack is serious, and it is serious because there are people up there who are dying; there are people up there in human misery; and, while that is going on, these people have been playing forensic games and they have taken their eye off the ball. If the establishment of a select committee is supported in this place, Mr Ascione can have every opportunity; I will do everything to facilitate his coming before the select committee and responding to some of the matters that I raised both on 11 July and today, and he will have every opportunity to put his particular point of view.

In terms of making complaints to the conduct board, as a member of parliament I am entitled to bring matters to the attention of the people of South Australia and I will not be intimidated in that. This issue is so important as to demand being looked at openly and not in the closed environment of a professional conduct inquiry. It is an issue that needs to be dealt with not only in the context of Mr Ascione's past behaviour but also what we as a state and, indeed, as a nation must do to address the very serious problems that exist in the northern part of South Australia.

The matters that I raised in parliament on a previous occasion and on this occasion have been backed up by documentary evidence and, as I said earlier in my contribution, I am prepared to give every single piece of paper in my possession relating to this matter to the minister because I have every confidence that, once the minister gets right across this issue, he will be extremely concerned at the fact that some people have put their own sinecures and their own personal fiefdoms ahead of the human tragedy that exists in the northern part of this state. In that sense, my answer to Mr Chris Kourakis is that this is an important issue. I know that Mr Kourakis is a pretty learned sort of fellow, and I might ask him: where was he when Mr Ascione was defaming and making malicious comments about a fellow member of the legal profession in Kevin Borick QC?

Where was the Law Society when Mr Ascione was going on radio and making malicious and completely false statements? My understanding is that Mr Kourakis has done nothing to defend him, and that what Mr Kourakis has done, under the guise of a letter from the Law Society, is enter into a political fray. I welcome him in that, but he need not think that he will get it all one way. A number of issues need to be addressed, and perhaps I can raise some of the questions I think the select committee should look at. With respect to the legal and anthropological services to AP by the Pitjantjatjara Council:

1. Has there ever been a service provision agreement between AP and PC (Pitjantjatjara Council) concerning legal and anthropological services?

2. If not, why not?

3. From 1990 until 2002 what legal and anthropological services were provided to AP, by whom and who paid for them?

4. What fees were paid to the Pitjantjatjara Council and by whom for those services?

5. Between 1990 and 2002, has anyone else been given an opportunity to tender for the provision of those services and has the Pitjantjatjara Council provided any advice as to the most appropriate way to engage people for legal services?

6. Have the traditional owners been given the opportunity to express their views on the quality of the legal and anthropological advice provided by the Pitjantjatjara Council, and have they been given the opportunity to seek independent advice in relation to that?

7. During the same period, what royalties have been negotiated in relation to land access in prospecting mining wealth?

I might say that the minister quite properly referred to that important issue in his answer to the question from the Hon. Rob Lawson only last Monday. If I were a betting man, as sometimes I am, I would suspect that it is very little. In fact, I think the select committee might uncover some extraordinary incompetence on the part of Mr Ascione and his colleagues in relation to the management of mining issues, depriving these people of wealth and opportunities for advancement. I commend the motion.

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

ESSENTIAL SERVICES COMMISSION BILL

Adjourned debate on second reading.

(Continued from 21 August. Page 737.)

The Hon. R.I. LUCAS (Leader of the Opposition): The opposition—the Liberal Party—supports the legislation as we have in another place. The Liberal Party has, in another place, highlighted that this legislation is essentially a rebadged version of the South Australian Independent Industry Regulator Act. For those who are interested, I commend the questioning of the Minister for Government Enterprises (Hon. Mr Conlon) by the shadow minister for energy, the member for Bright, in highlighting how this legislation is almost a carbon copy of the Industry Independent Regulator Act, but it has been dressed up, in typical Rann government fashion, to look to be something different with a more impressive sounding name, the Essential Services Commission.

I also commend a copy of the press statement issued by the shadow minister, which highlights in the important area of prices justification two or three pages of the legislation, which is almost word for word a repeat, and I will address that when debating the companion bill—the Electricity (Miscellaneous) Amendment Bill—to which the new Labor government has inserted only two minor clauses. It is fair to say that, on reading the debate in another place, the questioning of the Minister for Energy did embarrass and fluster him. He was not able to explain what plans the Labor Party had put in place since the election and, indeed, why various plans had not been put in place that had been promised.

We will have a chance to explore some of those issues during committee. Having looked at that debate, from a policy viewpoint, when I look at the Minister for Government Enterprises (Hon. Mr Conlon) I am reminded of fairy floss: it is all pink and sticky, no substance and, after you have consumed it, you know it was not worth the cost. When members read the debate in the House of Assembly I am sure that all members will agree that there is no policy substance at all from the fairy floss minister, the Minister for Government Enterprises, the Hon. Mr Pat Conlon.

The debate that will ensue on this legislation and the Electricity Act will make it clear that, from a policy viewpoint, there has been no substance from that minister or, indeed, from other ministers in this government. I want to go through in some detail the Australian Labor Party plan—which it announced to all and sundry prior to the state election—in relation to electricity. As is my wont, I do want to refer to the Mike Rann pledge card, which states:

My pledge to you—Labor, the right priorities for South Australia.

Mr Rann's pledge to the people of South Australia was to fix our electricity system. He was going to bring in cheaper power via an interconnector from New South Wales. So, that is a clear commitment from the Hon. Mike Rann whose pledge card reads, 'Keep this card as a check that I keep my pledges.' He was going to keep his pledge of lower power prices and cheaper power in South Australia if people in South Australia were to support the Labor Party. I want to go through those plans to see what has happened since then. I will do part of that in this contribution and then address it in much more detail during committee.

I alert the minister's advisers—the former hardworking officers from Treasury who worked for me—that they will have a little work to do during committee. I am sure that will bring a smile to their faces as they read assiduously the *Hansard* from this afternoon. The Labor Party announced in May 2000 its 15-point plan to solve the electricity problems in South Australia. Of course, just prior to the election some 18 months later, six of those points must have disappeared somewhere because it had a nine-point plan to solve the electricity problems in South Australia.

As I said, the pledge card from the Leader of the Opposition said that he would bring about cheaper power. We saw a massive scare campaign through all the marginal seats, as you, Mr Acting President, would know as a result of your campaigning. I will refer later to letters from candidates, such as the member for West Torrens, Mr Koutsantonis, who claimed that power prices would rise by 80 per cent after full retail contestability in January of next year. Various members, candidates and shadow ministers claimed power price increases of 30 to 90 per cent after the onset of full retail contestability on 1 January next year.

When one looks now at what the Labor Party has done after almost six months in government it is fair to say that it has done precious little. It has done very little different to

what had already been set in place by the former government. Certainly it has not matched its rhetoric and in any way the claims that it was making prior to the last state election. For example, the now Premier indicated that electricity would be his number one issue. He indicated on 4 February in a media statement that, within days of winning government, as Premier he would call together business leaders and the heads of the privatised electricity utilities to work together to tackle the electricity crisis.

Without again going through all the detail, he indicated that this would be his number one priority; that within days he would have a round-table conference of business people and the industry together to resolve this issue. As my colleague the Hon. Mr Redford has inquired, that was one of the first promises broken by the new Premier. He obviously decided that he never believed what he said, or he never intended to have the round-table conference—that was just for publicity; or, on advice in government, he realised what a silly proposal it had been and he decided that he would not proceed with it now that he was in government.

Whichever, it does not give us much confidence in the judgment of the now Premier and this particular government. The Liberal government was attacked last year for making only a few mentions in its budget documents about the electricity problems that were confronting South Australia at the time. It was criticised not only by the opposition but also the *Advertiser*. I defy anyone to go through the first budget of this Labor government and find any mention of the electricity problems confronting South Australia, because there was none. No mention was made by this government, this Premier or this Treasurer.

It was interesting to note that no criticism was forthcoming from the Adelaide *Advertiser*; that what was meant to have been the number one issue for the incoming Labor government did not rate a mention at all in its budget. In fact, amongst its budget changes—something I will address in the electricity bill—was the breaking of another promise or commitment that had been given by the former government to help pensioners and self-funded retirees with the impending increases in electricity costs in South Australia. That assistance was taken away cruelly by this government and supported by members of the backbench who, in a slothful way, sat on their tails and did nothing to assist the pensioners and self-funded retirees in South Australia who may well have needed that assistance.

The Hon. R.K. Sneath interjecting:

The Hon. R.I. LUCAS: Well, the GST now supported by Mr Crean.

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order!

The Hon. R.I. LUCAS: The Hon. Mr Sneath leads with his chin on most occasions.

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The Leader of the Opposition has the call.

The Hon. R.I. LUCAS: During the House of Assembly debate on this legislation, and during the estimates committee, the Minister for Government Enterprises was asked to explain what the new government has done in six months. We know what it promised—it promised the world. It was going to fix everything and bring in cheaper power. But what has it actually done in the six months that it has been in government?

When one goes through the House of Assembly and estimates committee debates on this legislation, several claims were made by the minister. The first thing he claimed for the government was as follows:

> We have put in place good policy and good planning that is necessary to address long-term issues with respect to wholesale prices. Unfortunately those things take some considerable time to flow through.

So, the government put in place good policy and good planning. The minister was not able to indicate what good policy or what good planning but, nevertheless, it was in place; and he indicated that it would take some time to come to fruition in terms of any claim benefits. He went on to indicate that the government was going to establish the Essential Services Commission which is, as I have indicated, essentially the independent regulator, rebadged. That has been adequately addressed by my colleague in another place, and we will address some of that detail in the committee stage. So, no difference there at all.

The minister then sought to explain the next thing that he had done by saying that he had attended a meeting of ministers in the eastern states. He reported that the meeting of ministers had determined that it would direct the National Energy Code Administrator (NECA) on certain policy matters within the national electricity code. I point out that the last two ministers for electricity from South Australia—Mr Matthew and myself—both agreed on that particular policy, that is, that there would be a rewrite of the national electricity code, that the legislation would provide some general power of direction on general issues of policy, and that provision would be there rather than in the national electricity code. The challenge for the current minister—and the previous two ministers—is to finalise the drafting and proceed with amendments to the legislation.

The Hon. R.K. Sneath: What took you so long?

The Hon. R.I. LUCAS: What is taking this minister so long? He has been there for six months and done nothing. The Hon. Mr 'Slothful' Sneath has woken from his slumber to interject, and not in a helpful way.

The Hon. R.K. Sneath: If you can't win you get personal.

The Hon. R.I. LUCAS: You haven't seen anything. That's not personal.

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. R.I. LUCAS: How sensitive is that? If he wants to see personal, he should hang around a little bit longer in this chamber—

The Hon. G.E. Gago: He is the only one listening to you.

The Hon. R.I. LUCAS: Well, that is the only thing we can congratulate him for. To give him credit he is at least awake and listening on this occasion. I will speak more quietly and let him go back to his normal processes. When the minister was then asked what else he had been doing, he said that he had been to a meeting of ministers in the eastern states, the outcome of which was to require NECA to undertake certain inquiries. Shock, horror. What a bold policy initiative. It had already been done by the former government. In fact, NECA had already been required to undertake certain inquiries in a number of areas. This 'bolt from the blue' policy initiative from the fairy floss minister for energy that we have is just a continuation of what was already in existence.

The minister was then asked what else he had done, because that did not seem to be much. He gave details of another meeting he had attended in the eastern states at which

a commitment was made to undertake a review of transmission policy, hopefully within the next 12 months. Again, another bolt from the blue. The minister attended a meeting of ministers in the eastern states and the outcome is a commitment that hopefully a review on transmission policy will be undertaken within 12 months. There had been an agreement for a review of transmission policy since last year. Again, the minister was asked what else he had been doing because it seemed there had been six months of slothful inactivity by the minister.

The Hon. R.K. Sneath: What does that mean?

The Hon. R.I. LUCAS: Goodness me. Get a dictionary for the man. The minister said, and it is very important:

> There was an undertaking to review the possibility of instituting a single national regulator.

I can at least indicate that that is something that has been introduced only in recent times. I think Mr Matthew might have had some discussions about it early this year. It is an issue that Mr Broad from Victoria has raised, and the ACCC and others are now looking at the possibility of a single national regulator. Being as fair as we are we certainly indicate that that is at least one review that may not have been in place for a long period of time under the previous government. We will be interested to see what that review brings about.

So, all of those initiatives were previously in place or essentially the same as what had been done by the previous government. The minister then discussed two final areas. One area was the government's intended policy action in relation to securing gas supplies for South Australia. As you would know, Mr Acting President, there was activity in this area for over two years by the former government, which set in place a process where the SeaGas consortium was proceeding with a pipeline from the eastern states: Victoria to South Australia. There has been an alternative proposal and, when the Leader of the Government in the council made a ministerial statement on this issue a few weeks ago, the opposition welcomed the progress. But, as I indicated at the time, the fact that it was to be a 14 inch pipe was not, in my view, the best solution for South Australia's gas industry, gas competition, or for the electricity industry and industrial development.

Had we been in government, we would have been much more active in trying to encourage the two groups to get together to bring a 16 inch pipe into South Australia, since that is basically what is required. Again, in that spirit of fairness for which the opposition is renowned, I indicate that getting two commercial groups to come together, when they do not want to, is something which is a difficult task for any government. There is no power of direction. There can only be a power of encouragement, of leadership and a power of policy direction, to encourage those two commercial groups to see that working together is in their best interests, as well as those of the state. A bigger pipe coming into South Australia would allow greater gas competition and also help with the electricity industry.

The final area the minister discussed was tougher penalties for rebidding practices that have been undertaken by some of the generators in the national market. The Liberal Party, when in government, led the charge in this at the national level. The South Australian government was the first to suggest that there should be tougher penalties on generators which engaged in inappropriate rebidding practices. We made policy judgements, as I think all others have now—although the Labor opposition at the time seemed to think that all rebidding was bad and should be banned—that some rebidding practices were acceptable because, in fact, a significant number of the rebids are in fact at lower prices, rather than higher prices. So banning rebidding may well not assist the policy goal of seeing lower prices in the electricity market.

The former Liberal government did lead the charge to get tougher penalties of up to $1 million for inappropriate rebidding. At those meetings of ministers, it was the New South Wales Labor government and its ministers who were the flies in the ointment (if I can use a colloquial expression that even the Hon. Mr Sneath might understand) in relation to the policy proposals from the Liberal government. I will now explain in some detail why it was that the New South Wales Labor government opposed what the South Australian Liberal government—and now the South Australian Labor government—wanted to do in relation to rebidding practices.

I will obviously provide more detail, but put simply it is New South Wales government owned generators that have been behaving in the worst possible fashion in terms of their rebidding behaviour by ratchetting up prices in the national market not only in their state but also in our state. At a later stage, I intend to address the ongoing issue of Riverlink or SNI, bringing together this information on rebidding and the New South Wales government generators and the New South Wales Labor government's duplicity on the Riverlink or SNI proposal.

The information that I have on rebidding comes from an analysis from the National Electricity Code Administrator's (NECA) weekly market analyses and material available on the NECA web site over the last few months, and I will now put that on the public record. The New South Wales government owned generators' bidding strategies involve presenting as much as a half of their capacity at prices above $5 000/MWh, and little or no capacity at prices between $400 and $5 000/MWh. Since April this year that practice continued at the new price cap with an average of 1 050 megawatts being presented at prices above $1 000/MWh of which 800 megawatts or 80 per cent has been priced at more than $9 000/MWh. That is, 80 per cent of their bid has been priced at more than $9 000/MWh.

The bidding and rebidding strategies target the 6 p.m. evening peak. They took effect for the first time on 18 May following a cold snap in New South Wales. They generally are a part of day-ahead bidding, although they are often much closer to final dispatch. As a result of the strategies in principle of Macquarie and Eraring there have been copycat strategies adopted by other generators in the national market.

The cold snap on the weekend of 18 and 19 May resulted in an additional demand of about 2 000 megawatts across the southern regions compared to the average at that time of day over the previous two months. Despite this increase, Eraring Energy and Macquarie Generation maintain the strategies that they had both established throughout April and May of bidding significant proportions of their capacity at very high prices. By early morning of 18 May, they had 55 per cent and 22 per cent respectively of their capacity priced above $5 000/MWh.

As a result, their combined output was reduced by around 1 200 megawatts over the evening peak. There was very limited capacity offered at prices between $400/MWh and $5 000/MWh across the southern regions. Despite very high price forecasts well in advance there was very little evidence of competitive response. On this occasion, the strategy resulted in a spot price of $5 807/MWh in New South Wales

and close to $4 000/MWh in Victoria and South Australia. The spot price is a result of rebidding activities.

Weekly average prices reached as high as $154/MWh in Queensland, $143/MWh in New South Wales, and around $100 in the Victorian and South Australian markets. Turnover in the energy market increased to as high as $450 million a week, more than four times the average since the summer of 2000-01. The June quarter prices averaged $66/MWh in New South Wales, $58/MWh in Queensland and around $50 in Victoria and South Australia. Quarterly prices doubled in New South Wales and increased by 40 and 67 per cent in the other regions compared to the same period last year.

Bidding activity added almost a third to the overall average prices for 2001-02 in both New South Wales and Queensland. The spot price exceeded $2 500/MWh in New South Wales on 21 occasions throughout the quarter, representing more than half of all prices above that level since market launch. The highest spot price ever of $8 049/MWh occurred on Sunday, 30 June in New South Wales. Prudential cover required to be provided by participants, the costs of which are a potential barrier to new entrant retailers, increased by $700 million in just one week. I seek leave to have inserted in *Hansard* a table of a statistical nature setting out spot price comparisons of prices in the four states in the national electricity market.

Leave granted.

Spot price comparisons

	Qld.	NSW	Vic.	SA
April-June 2002	58	66	49	50
April-June 2001	34	34	32	36
Change from previous quarter	▲65%	▲137%	▲83%	▲76%
Change from previous year	▲67%	▲96%	▲52%	▲39%

The Hon. R.I. LUCAS: This table, which compares the spot price comparisons in the four states in the national electricity market, shows that when one compares the April to June quarter this year (that is, the quarter in which the New South Wales government owned generators were rorting or distorting the national electricity market) with April to June last year, there was a 39 per cent increase in the electricity price in South Australia, a 67 per cent increase in Queensland, a 96 per cent increase in New South Wales and a 52 per cent increase in Victoria.

The spot price for that quarter this year was $66 in New South Wales compared to $34 dollars the previous year. That is almost a doubling of the spot price for the quarter as a result of the distortions in the market brought about by the New South Wales government owned generators. As a result of that, the flow-on price in South Australia jumped from quarter to quarter from $36 to $50 (a 39 per cent increase).

Macquarie's bidding strategy during this period was to rebid prices above $9 000/MWh beginning the weekend of 13 and 14 April this year. They repeated that pattern on 52 evenings over an 11-week period, typical gouging in the order of 800 megawatts (or 25 per cent) up to a maximum of 1 400 megawatts. The rebid reasons that were given related to 'financial optimisation'. The behaviour abated in the first two weeks of July, that is, in the first two weeks after the end of the financial year in relation to moneys that needed to be moved in and out of various accounts in New South Wales to the benefit of the budget and some of the electricity utilities in New South Wales.

The pattern has recommenced for the second half of July in the order of 500 megawatts. The Eraring bidding strategy has been as follows. The bidding pattern changed from 18 May of this year. It typically presents half of the available capacity at prices more than $9 000/MWh over weekends. It rebids capacity into lower prices closer to dispatch, except during the evening peaks, the pattern repeated over the evening peak through to early June. It has consistently presented capacity at prices between $100 and $5 000/MWh only over the evening peak since mid June. Obviously, there was much more information available on the NECA web site and through various NECA analyses that have been provided, but time and the patience and my colleagues will not allow that to be put on the public record.

I want to give two examples of particular events on particular days to demonstrate what the New South Wales Labor government owned generators have been doing to the market. On Saturday 18 May, the New South Wales spot price was $5 806/MWh. At around 7.15 a.m. Macquarie Generation, the New South Wales Labor government-owned generator, rebid 510 megawatts of capacity from prices less than $100 a megawatt to prices greater than $9 000/MWh. The reason given was 'adjustments to seek improved profitability'. Macquarie Generation presented up to a total of 810 megawatts, or around one-quarter of its capacity, at prices greater than $9 000/MWh. Rebids by Eraring Energy during the day saw 150 megawatts shifted from prices greater than $9 400/MWh to prices less than $100/MWh. The reasons given included 'improve revenue position by optimising dispatch' and 'FCAS/energy trade-off'. There remained 1 350 megawatts, or close to half its capacity, priced at greater than $9 000/MWh. There was no other significant rebidding.

The other example I want to put on the record is Sunday 26 May when the New South Wales spot price peeked at $52 243/MWh. Conditions at that time saw actual demand slightly more than forecast with prices generally reflecting those in Queensland. Imports from the Snowy were constrained for seven dispatch intervals to around 3 000 megawatts. Macquarie Generation presented a total of 1 400 megawatts, or more than one-third of its capacity, at prices greater than $9 000/MWh through day-ahead bids. Similarly, Eraring Energy presented a total of 1 460 megawatts, or more than half its capacity, at prices greater than $5 000/MWh. There was no significant rebidding. The reason I want to put that in some detail on the record is because I do not think more than a handful of people have looked at the NECA web site or the NECA market analyses as to what is going on in the national electricity market.

The Hon. Caroline Schaefer: I can't bear to start the day without it!

The Hon. R.I. LUCAS: Exactly; my colleague says that she can't start the day without it—I would be surprised. It is important because at the time of the debate about the national electricity market and privatisation, shadow minister Conlon, shadow minister Foley and the Leader of the Opposition were leading the charge in relation to this rebidding and attacking the privatised electricity generators in South Australia and elsewhere. All the sins of rebidding were sheeted home to the former government's decision to privatise electricity. The government of the day did not get much publicity in response when it pointed out that this was a deficiency in the national electricity market design—not an issue of privatisation—because New South Wales Labor government-owned generators were engaging in rebidding strategies up to their necks, as were the privately owned generators.

The Labor Party and their apologists within South Australia refused to accept or believe that, because they had

this tunnel vision that any problem that existed in the electricity industry was because of privatisation—any problem was as a result of privatisation. The chickens have come home to roost for minister Conlon and this government. That is why we do not see any criticism from this government at the moment about the privatisation of the generators in relation to rebidding. That is why there is no railing about NRG, in particular, in South Australia. The people who are distorting the market at the moment, at a cost to the national market—which I will highlight later—are New South Wales Labor government-owned generators, Macquarie Generation and Eraring Energy, in particular.

The Hon. R.K. Sneath interjecting:

The Hon. R.I. LUCAS: No, the solution is to do what we have been seeking to do—but we have been stopped by the New South Wales government ministers—that is, to ban inappropriate rebidding practices; whack in the million dollar penalties to stop them from doing this. We have been stopped or hindered all the way by Mr Yeadon, Mr Egan and the Labor government ministers in New South Wales, advised by Danny Price (of all people), Professor Anderson and others in New South Wales. There will be more of those gentlemen later when we talk about Riverlink or SNI.

This is a deliberate strategy by the New South Wales Labor government to distort the national electricity market at a cost to all consumers throughout the nation. What have we heard from this new Labor government in South Australia? We have not heard a squeak from minister Conlon, Treasurer Foley or Premier Rann against the activities of their colleagues in New South Wales—some of Premier Rann's best mates. We do not see Premier Rann hopping on a plane to do a deal with Premier Carr to ensure that the New South Wales government-owned generators do not screw the national market in terms of its price at a cost to all consumers across the nation. We will be pursuing this issue during the committee stages of the bill. It is an important debate and the people of South Australia—or at least some of them—ought to be aware that the New South Wales Labor government is not that benign friend that many in the Labor Party and its supporters believed when they came offering us gifts, as they did, with their support for Riverlink and SNI—and there will be more on that later.

I now turn to some other issues that have been raised during the debate on this legislation and the companion bill, the Electricity Act. During the debate on this matter, the Minister for Energy has continued to make a number of untrue claims in relation to the background to electricity reform in South Australia. One which continues to be repeated by the minister and other members of the Labor Party is that the Liberal government during the privatisation process was interested only in the value of the assets to be disposed of and had no concern at all for consumers in South Australia. That is untrue, and the Minister for Energy knows that to be untrue. During debate on this bill, and also the companion bill, I intend to put on the record why those claims were untrue.

If the Liberal government was interested only in the value of assets during the privatisation process and not concerned at all with consumers and competition, it would not have done a number of things because they significantly reduced the value of our electricity assets during the privatisation process. First, the former government would not have disaggregated to the degree that it did the Electricity Trust of South Australia and Optima. The board of Optima, the generation company, strongly opposed the Liberal government's view that it should be broken up into two or three competing generators. It said—and rightly—that it would be more valuable as an asset if sold as a whole, as a monopoly provider of generation capacity in South Australia. Certainly, I think the view was the less the extent of disaggregation, the greater would be the value, that is, if it was broken up into two, it would be better than breaking it up into three competing generators.

Mr President, if you speak to your colleagues in Western Australia, you will know that a similar debate is going on in Western Australia with the Western Australian Labor government looking to disaggregate electricity companies in Western Australia and the boards opposing the break-up of their companies in Western Australia. The former South Australian government took the pro competition policy viewpoint. It accepted that it would be more valuable to sell this asset, Optima, as a whole, but in the interests of competition it needed to disaggregate to the greatest extent possible and took the view it would disaggregate into three competing generators; that was the position the South Australian government then proceeded to implement, against the wishes and views of some members of the board of the company.

The second matter is that the South Australian government would not have fast-tracked Pelican Point if we had wanted to maximise the value of our generation assets. Mr President, I assure you that, if you are wanting to sell Torrens Island—an ageing electricity plant in the north-western suburbs—the last thing you would do is to fast-track a modern, much more efficient 450 megawatt (with the potential to go up to 800 megawatt) gas-fired generator just down the road at Pelican Point. What you would have done—because we could not prevent Pelican Point from being built—is left the proponents of Pelican Point to fight their way through the government departments and agencies.

My colleague the shadow minister will know that any company or proponent seeking to fight its way through all those various departments and agencies would have found that they become lost among the Aboriginal land rights claims, health issues, protests from the Labor Party being led by Mike Rann and Mr Foley, environmental issues, public works issues and parliamentary issues. In fact, everything and anything you could think of would have held up Pelican Point for many years. We fast-tracked Pelican Point for the reasons that I will outline a little later; that is, we basically needed the power, and we needed it very quickly.

The government also fast-tracked other capacity. Since December 1998, in the three years of the Liberal government, we increased the power generation capacity in South Australia by almost 40 per cent—in fact, 37 per cent. Osborne generation, Ladbroke Grove, Hallett, the Quarantine Station, the small station at Lonsdale and Pelican Point added up to about a 37 per cent increase in generation capacity in just three years of fast-tracking by the government. Why? First, we needed the capacity; and, secondly, we needed more competition in our marketplace. I compare that activity with that of the last Labor government.

Between 1982 and 1993, what did the then Labor government do in relation to power generation in South Australia? Mr President, there was a 90 megawatt peaking station at Mintaro (of which you may be aware), and there was also some additional capacity at Port Augusta during that decade. That was all, in 11 years of Labor government administration, in relation to in-state generation capacity in South Australia. In just three years, between 1998 and 2001, we saw almost a 40 per cent increase in in-state generation here in South

Australia. If you want to increase the value of the sale of your generation assets, you would not have been fast-tracking this huge increase in generation capacity in South Australia. We also fast-tracked the MurrayLink underground, unsubsidised, unregulated interconnector through the Riverland. I was pleased to see the press statements in the past week indicating that energy will be flowing, so the proponents say, by the end of this month from the eastern states through the Riverland into South Australia.

I will talk in a moment about Riverlink and SNI, but there were a number of other aspects of additional capacity in terms of exploring options for interconnection into South Australia and also into Victoria from either Tasmania, with Basslink, or through the Snowy with SNOWVIC, which also will assist South Australia's capacity. Another area that impacted on the value of our assets was the decision of the government with respect to grace period customers. The government continued the subsidy for all the medium and large sized businesses until July 2001, at a cost to the value of the assets that we sold. If that grace period subsidy had not been included in the privatisation process, the government would have been able to receive a higher value for some of its assets during the privatisation process.

In all those areas, the government deliberately made decisions, knowing that it would reduce the value of our assets, but supporting them because they were competitive in their nature and would, therefore, be in the public interest as part of our privatisation process. So, claims made by the member for Elder and the minister that the government was only interested in the asset values and had no concern at all for consumers were untrue. In particular, I refer to a statement that the minister made on page 96 during the estimates committees when, in talking about the sale of the assets and the protection of consumers, he said:

> It was largely driven by the former Treasurer, despite advice from bureaucrats, I might say.

That is untrue. Any of the bureaucrats who worked with me during that period would advise the minister that that statement was untrue. The essential policy positions that were put by the government during that period were not meant to be supported; they were in accordance with the advice, by and large, that had been given by the policy advisers within Treasury—because they were providing advice to me. It may well be the case that there were bureaucrats in other departments who might have had different views but, certainly, not the ones who were advising on this process.

The discussion on Pelican Point now leads us into the discussion on Riverlink and SNI. We have had four years of discussions about Riverlink and SNI in this chamber, and members will be delighted to know that I do not intend to go through all the detail of that again. But, certainly, for the new members, it will be useful to provide a very quick, potted summary. Before mid 1998, the South Australian electricity utilities and the New South Wales electricity utilities were jointly looking at the option of a Riverlink proposal and a transmission interconnector through the Riverland, connecting New South Wales and South Australia.

In mid 1998, as we were going through the privatisation process, the advice that was provided to me by the advisory team—both the bureaucrats and the consultants—was that this state urgently needed additional power by the end of the following year—that is, the end of 1999—and that, if we did not have additional power locked in and available for the summer of 1999-2000, we faced significant potential blackout problems because, as I said, for the past 11 years, a slothful, inept Labor government had done very little in relation to increased generation capacity in South Australia. The advice was strong, and it said that we needed to act, and act urgently.

We had a number of options. The option supported by the New South Wales Labor government and, ultimately, by the Labor Party in South Australia and its sympathisers on that issue—the Hon. Mr Xenophon and other odds and sods such as Mr Duffy, Danny Price, Dick Blandy and some business leaders in South Australia—was that that additional power should be provided by Riverlink or SNI. My very strong advice was that we could not guarantee Riverlink or SNI being built by the end of 1999, because we did not control the decision making processes. It had to get approval from NEMMCO, an independent national authority, that it could be built as a regulated asset, and we did not control that independent body. It also required environmental approvals through the Riverland and parts of New South Wales, and there was significant opposition already for an above ground interconnector going through the Bookmark Biosphere in the Riverland or farming communities in the Riverland.

The advice that was given to me (and, as I said, advice with which the Labor opposition in South Australia and Mr Xenophon and others disagreed) was that the only way of guaranteeing the additional power we needed was to fast-track new generation. We had to find a place to do it, and we decided on Pelican Point. That is the sole reason why the government went so strongly down the path of Pelican Point during that period—because we knew it was the only way we could guarantee the additional power by the summer of 1999-2000. So, in mid 1998 I wrote to NEMMCO asking it to defer its decision. We had other reasons; for example, its arguments about its being more sensible to support an unregulated interconnector. Already there were proponents who were prepared to look at putting in unregulated rather than regulated interconnectors, and we wanted to explore those options as well. I repeat: the South Australian government never has had and still does not have the power to stop or to approve an interconnector like Riverlink or SNI. We asked for a deferral of the decision from NEMMCO. As it turned out, NEMMCO had already made its decision by the time it had received the letter.

Everyone received a decision from NEMMCO indicating that Riverlink did not pass the benefit test and, therefore, would not be approved as a regulated asset in the national electricity market. As a result of that, there were changes to the benefit test to allow Riverlink or SNI to see whether it could meet a new benefit test. Eventually, at the end of 2001, almost three years later, NEMMCO finally gave approval for SNI to be a regulated asset. That decision is now being challenged by the Murraylink proponents and other generators in the National Electricity Tribunal, and that process is going on at present. I understand from people who have some knowledge of this issue that some stunning evidence will be given on this issue in the National Electricity Tribunal. I understand that some grave accusations will be made against the New South Wales Labor government in relation to threats that it made. I also understand that significant questions will be asked about the approval process of NEMMCO eventually in approving Riverlink/SNI as a regulated asset. There will be more of that later. As I understand it, a number of people are aware of this information, and it is likely to achieve some publicity. However, those who went arm in arm with the New South Wales Labor government as the saviour of South Australia may become a little embarrassed when this

information or evidence is provided in the National Electricity Tribunal.

The Labor Party and its proponent sympathisers claimed that there would be billions of dollars in savings if Riverlink or SNI were to be built into South Australia. TransGrid gave evidence to the Economic and Finance Committee—and I will need to check this—but my recollection is that it was claiming savings to the South Australian community of $150 to $190 million per annum for some years if Riverlink were to be built. As members would know, the Liberal government at the time challenged those claims, even though they were supported by the Labor Party and some sympathisers. I know that some business leaders at the time accepted those claims being made by the Labor government. We highlighted the fact that electricity consumers would pay a cost for the building of Riverlink, even if in the future we were not to use Riverlink. At the time we claimed that the cost was about $10 to $15 million. People have now settled that the cost could be about $10 million when and if this project proceeds even if it is not being used.

These claimed price advantages in South Australia from New South Wales cheaper power, as promised by Mike Rann in his pledge card, are based on New South Wales prices being significantly lower than South Australian prices. When I speak on the electricity bill, I will provide more detail on this. I refer to the volume weighted prices per megawatt hour for the various states. These prices are for the last 52 weeks up to 10 August this year, so they are very much up to date. They are off the NECA web site. They show that, for the last 52 weeks, the price in South Australia was $36.54; the price in New South Wales was $42.03—on a volume weighted basis they are some $6 higher than the price in South Australia.

If those prices were to persist for a good part of the length of the life cycle of the Riverlink interconnector—if it is built—if you have a price of $42 in New South Wales and $36 in South Australia, it does not take much to realise that it will be only at times of very significant shortage that we will import electricity from New South Wales. In fact—and this is happening now—we would export power from South Australia to Victoria because the South Australian prices are lower than those of Victoria. Therefore, we are using the existing interconnector to export power into Victoria. Certainly, at times of shortage, $42 will be cheaper than peak prices from peaking generators. That is an important back-up. For that reason, the Liberal opposition supports additional interconnection between the states to provide that additional back-up or security and power.

When one looks at a figure of $42 in New South Wales and $36 in South Australia, one does not see any of these $150 to $190 million a year savings that the Labor government, the Labor Party and the New South Wales Labor government were claiming for South Australian consumers. On this basis, if we never used the interconnector, electricity consumers in South Australia would still have to pay $10 to $12 million a year in subsidies to the New South Wales Labor government for the joy of building the interconnector—even if we get no power at all down the pipe. When you put this issue together with the issue I raised earlier about the distortion of the market by the New South Wales Labor generators, one can see the duplicity of the New South Wales Labor government in this whole debate over power and power policy.

I am afraid that Labor and the Hon. Mr Xenophon accepted the New South Wales Labor government's view that they were here as friends to assist us in providing cheap power into South Australia. What they finally got was approval through NEMMCO—as I said, that issue will be subject to some challenge—late last year. As soon as they got approval for that, which is a guarantee of about $10 million a year in consumer subsidies from South Australian electricity consumers to the New South Wales Labor government, they then moved into Stage 2 in which they used their government owned generators in New South Wales to distort the market price and to ratchet up the price—as I highlighted earlier—with increases of 40 per cent to 96 per cent in New South Wales from this quarter, April to June this year, compared to April to June last year. They got the approval for the subsidy on the interconnector. They then went to their government owned generators and distorted the market, they used their rebidding policies and they ratchetted up the price not only to the cost of their consumers but to us. So they got to have their cake and eat it, too.

The sad thing is that they were assisted by the Labor Party in opposition and by their sympathisers who knew not what they did—the Hon. Mr Xenophon, in this case, and others such as Professor Blandy and some business leaders in South Australia, who accepted that the New South Wales Labor government was here to help us by providing cheap electricity prices.

I place the Leader of the Government on notice that, when we debate this in committee next week, this issue in this bill and in the next bill will be pursued at length and in detail. We want to know what this government is doing in relation to the policies of the New South Wales Labor government and we want to know whether it will now admit the error of its ways in relation to its statements on this issue in those long years of this debate when it was in opposition.

The final issue that I place on the record in relation to the essential services legislation is the other furphy that has been raised, again in debate in another place and also in the community generally, and that is the area of blackouts. I place on the record some figures to assist those members who want to argue with fact rather than with fiction. As members know, for the past 18 months to two years, the Labor Party and others have highlighted the claim that, since the electricity businesses have been privatised, and under a Liberal government in particular, blackouts have been much worse than under a Labor government and under public ownership.

I have a graph which I know I cannot have incorporated in *Hansard* but I will describe it. I am happy to provide copies to any member who wants to follow the issue through. I highlight the particular figures provided by ETSA Utilities. In 1989-90, under a Labor government and under public sector ownership, the average time without power per customer in South Australia was 253 minutes, and in 1990-91 it was 263 minutes. So, under a Labor government and public ownership it was 253 minutes and 263 minutes.

In the seven years under a Liberal government between 1993-94 and 1999-2000, the average lost time was between 112 minutes and 119 minutes—in that order. So, the number of minutes lost during that period was less than half. It is true that 2000-01 was a terrible year: it was the hottest summer in 96 years and we had a terrible year of transformers blowing. As a result, ETSA Utilities spent $12 million replacing transformers. I do not have the exact figure but I think, even in that terrible year, the time lost was around 170 minutes per customer—still significantly less than the 250 minutes and 260 minutes per customer under a Labor government in 1989-90 and 1990-01. I understand that in the

most recent year the number has declined significantly again and is closer to the 120 minute mark but, because the full year of 2002 has not been completed, we will not see those figures until later in the year.

I place those figures on the record because, if you listen to talk-back radio, in pre-privatisation times we never had a blackout in South Australia, and in post-privatisation times the world has fallen in and we can never get power in any way. Let us argue the facts in relation to these issues. More importantly, we will ask the Labor government, given that it campaigned on this, what it intends to do that is different from what the former Liberal government did in these areas.

In conclusion, I indicate that this new government, whilst it talked big in opposition about a plan to solve the problems of electricity supply, has done nothing in six months that had not already been put in place by the former Liberal government or has been rebadged in some way—such as the Essential Services Commission as opposed to the Independent Industry Regulator. As we go through the committee stage of this bill and the electricity bill, we will be able to demonstrate that even more clearly.

The Hon. G.E. GAGO secured the adjournment of the debate.

AGRICULTURAL AND VETERINARY PRODUCTS (CONTROL OF USE) BILL

Consideration in committee of the House of Assembly's amendments.

The Hon. P. HOLLOWAY: I move:

That the amendments be agreed to.

I indicate that I have just spoken to the Hon. Ian Gilfillan of the Australian Democrats, who has indicated that after consideration of these amendments he agrees with them. I want to place that on the record. The amendments that have been suggested are required to address a problem that has arisen in relation to the definition of 'withholding period' as set out in the AgVet Code. It has become apparent that the current definition does not, in practice, correspond to the types of instructions that may appear on labels for agricultural chemical or veterinary products in relation to withholding periods.

The bill needs to enable enforcement of withholding period statements relating to the registered use of chemicals to minimise the possibility of contaminated trade products entering the market. Sections 9, 16 and 17 describe the responsibilities of persons using agricultural or veterinary chemicals in relation to withholding periods. To promote uniformity, many definitions in the bill refer directly to the commonwealth Agricultural and Veterinary Chemicals Code Act 1994, commonly called the AgVet Code, which controls the registration, labelling and sale of agricultural and veterinary chemicals. The definition of 'withholding period' in the AgVet Code is:

'withholding period', in relation to the use of a chemical product, means the minimum period that needs to elapse between:

(a) the last use of the product in relation to a crop, pasture or animal; and

(b) the harvesting or cutting of, or the grazing of animals on, the crop or pasture, the shearing or slaughtering of the animal, or the collection of milk or eggs from the animal for human consumption, as the case may be;

in order to ensure that the product's residues fall to or below the maximum limit that the NRA permits.

It is the view of parliamentary counsel that this definition is deficient in not including all time-based instructions that appear on chemical labels. The definition in the bill is limited to the time elapsed between chemical treatments and the activities stated, and other statements that appear on labels that are intended to be withholding periods may not be covered by this definition.

Two examples of this type of statement are: 'Do not use treated grain for human consumption within 5 days of treatment'; and 'Remove stock from treated area 14 days before slaughter.' Although the majority of withholding periods on labels relate to activities covered by the AgVet Code definition, the bill should enforce all time-related statements, including those less common such as the examples above. The proposed amendment adds a new definition of 'withholding period' and makes a change to clause 16 to apply the new definition to veterinary provisions for withholding periods. Further, the amendments before us relate to section 9 and, in particular, the subject of withholding periods on permits.

Section 9 describes provisions in relation to withholding periods on approved labels of registered agricultural chemical products. These provisions do not extend to permits issued by the National Registration Authority. Permits are important for minor crops in horticulture for which chemicals may not be registered for a particular use, and permits have similar instructions to labels. It is important to have the same provision in the bill for withholding periods stated on permits as currently exists for those stated on registered labels. Although the bill contains the provision to enforce 'mandatory instructions' displayed on a permit (sections 7 and 14(2)(a)(i)), advice from parliamentary counsel is that a withholding period cannot be regarded as an instruction for the use of a chemical as it applies to the product after use has occurred. Hence the withholding period provisions need also to be applied to permits.

The following changes to section 9 have been proposed in the amendment to extend the provision to withholding periods on permits. Section 9(1) describes the offence of not observing a withholding period. The amendment inserts (a) and (b) to extend the section to withholding periods stated on permits, and to give the provision for prescribing by regulations particular withholding periods that must never be contravened regardless of whether or not the purchaser has been notified. Section 9(3) allows sale of produce within a withholding period if notification is given to the recipient of the trade products. The amendment changes paragraph (b) to include withholding periods set out in a permit. I commend those amendments to the council.

The Hon. CAROLINE SCHAEFER: The opposition supports these amendments, and they have been adequately described by the minister. They tidy up some loose ends with regard to the definitions of withholding periods to make them both tighter in construction and easier to understand for the general user. My only complaint is that this bill has now been before this chamber twice and the House of Assembly twice over a period of nearly two years, and it has taken all this time for either our learned parliamentary counsel or whichever section of Primary Industries, Crown Law adviser or someone to find what is a fairly minor loophole in a definition. I would have thought that with the scrutiny that goes on before the preparation of a bill, let alone when it comes before parliament this many times, someone would have picked this up earlier and made the amendment unnecessary.

However, that not being the case, we support it. I had some initial concerns that we will now not be uniform with the Agricultural and Veterinary Chemicals Code, which is a standard set across Australia. However, my understanding is that many of the other states are now going to follow suit and introduce this very minor amendment.

The Hon. P. HOLLOWAY: I thank the opposition for its support.

Motion carried.

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 21 August. Page 750.)

The Hon. T.J. STEPHENS: This is the first Appropriation Bill that I have debated, and I have to say that observing this budget process has given me an insight into what the responsibilities of being in government should be all about. There is no doubt that, when Labor members took over, they found the state in wonderful economic shape, with South Australia's gross supply of product expected to continue growing by around 2.75 per cent. In its budget statements the Labor government itself recognised the fantastic job of the previous Liberal government. Compared to what the Liberal government inherited from Labor in 1993, that is, $9.3 billion worth of debt, Labor has inherited all those elements in the economy that should make life far easier for a government to provide the traditional services to the people of South Australia: crime prevention, education, decent roads, new schools and country aged care facilities, to name just a few.

There is absolutely no economic excuse when it comes to Labor's axing and cutting vital services and infrastructure in this budget, and no budgetary excuse for the deliberate neglect of certain sections of the South Australian community. We all know the real reason why Labor has not been able to deliver on its pre-election promises or to maintain and improve on the delivery of all the traditional services to South Australians. It is simply that Labor, in order to win government, promised too much to too many people. Labor outbid the Liberals in its raft of pre-election promises and in its compact with Peter Lewis to take government. Labor knew from the outset that it would not be able to fund all its pre-election commitments and that promises made would have to be broken.

The first promises to be thrown out were, as expected, promises that affected those communities in which Labor did not believe that it had any traditional support. It is now apparent that Labor's broken promises targeted the business community, the so-called wealthy, the hotel industry and rural and regional areas of Australia. As I said, this whole budget process has been a real eye opener. As a small businessman in my previous life, I was keen to see in this budget significant support for small business and employment growth, but I have been disappointed. Labor came to this election claiming to have changed its spots. It assured all that it would work with small business and industry to help maintain the state's positive growth and keep the employment figures rising. This was far from the truth.

The first promise to be broken was that the government would not increase taxes and charges. Instead, there has been an increase of more than $120 million in government charges over four years. With increases in stamp duty for conveyancing and rental agreements, people could be paying anything from $500 to $7 500 extra, not to mention the new taxes on commercial hire purchase set to bring in $7.5 million, again mainly at the expense of small business and medium enterprises. Add to this increases in emergency services levy revenue and 9 per cent compulsory third party insurance increases, and we have to ask: is South Australia really open for business under this government?

I was also disappointed to see that measures to create employment have been forgotten in this budget. The Labor Party promised for years that it would do something about the high rates of youth unemployment, but there is nothing that looks to create employment and no employment statement at all included in this budget. Further, the government has slashed 100 traineeships in this budget, which will also have a significant impact on young job seekers. I remind the present government that the previous Labor government a decade ago could also not see the benefit of investing to create jobs, which resulted in a state unemployment rate of nearly 12 per cent.

Most of all, as a businessman I was utterly appalled by the blatantly dishonest dealing with the gaming and hotel industry. Before the election the Treasurer himself made a pre-election promise to the Australian Hotels Association that he would not increase their tax rate, and he promptly broke it after the election. To write a letter in which you guarantee that you will not increase taxes and to have a face-to-face meeting and say that you will not increase taxes and then, on election, to turn around and do the exact opposite sends a signal to business in this state that South Australia is not open for business.

It is quite clear that the Labor Government sees any business or industry that makes a significant amount of money as being ripe for the purposes of gaining revenue. This budget should be a clear warning that under a Labor government any business or industry is vulnerable to unplanned for and unexpected tax takes and revenue raising measures. I have received several letters of concern from hoteliers in relation to this gaming tax.

Based on an unequivocal Labor undertaking, some of the hard-working, smaller hotel families made their decisions to borrow more to renovate or purchase bigger businesses and are now facing financial devastation. This taxation measure will seriously affect employment and business investment. Revenue from the hotel industry percolates down through the economy and has huge benefits. For example, I understand that some $50 million in development work was planned for various hotels and this will now not occur and, in turn, this seriously affects the South Australian construction industry.

Interstate investment will be irrevocably harmed, with many of the large, notable recent interstate investors losing millions in capital value. Treasurer Foley had the hide to try to justify the breaking of his promise to the hotel industry by saying that he had changed his mind. What investor would possibly wish to do business with a state that has a Treasurer who can one day encourage and give incentives to win investment into the state and in the next change his mind? I am also concerned that Labor is targeting those people that it might perceive to be wealthy and taxing the so-called wealthy. Are we seeing a wealth tax?

Residents in the seaside suburbs will be paying stamp duty and conveyancing of between $40 000 and $100 000 extra for their house. People say that if you can afford to buy a home like that you can afford $100 000. This is not the case at all. Some people have taken many years to be able to afford these homes. They may now be asset rich but many still struggle to make ends meet, and this tax increase is just another

example of penalising those who have saved and worked hard all their lives. During my doorknocking campaign many people questioned me about what the government would do for self-funded retirees.

But under this government the self-funded retirees have lost out on a $40 million concession package they were going to get as of 1 July. It was in place but this government has stolen it—taken it away. The concessions of self-funded retirees included electricity at $70 a year; water and sewerage rates, $185 per year; council rates at $190 per year; and motor vehicle registration at $56 per year. All of that is gone because this government thinks that self-funded retirees are wealthy. It does not understand that, in reality, self-funded retirees, in the light of current interest rates, are often worse off than pensioners. Rural and regional South Australia has also been penalised in this budget for its apparent lack of traditional support for the Labor Party.

There is no doubt that rural South Australia has been the saviour of the economy over the past couple of years. An article appeared in the *Advertiser* a couple of weeks ago entitled 'The $5 billion farm', which discussed the enormous growth within our rural industries in a way that has funnelled money into the economy. The article states:

> Country South Australia has saved the state economy in the past 12 months with a record export performance. Unpublished government figures for 2001-02 show just how important the state's rural sector was with exports up by $1 billion.

We have seen that local farmers have earned the best profits of all the states for seven of the past 10 years. The Labor government knows that we owe much of our economic success to the efforts of those who live in rural and regional Australia, yet these areas of the state are being penalised and neglected by Labor because, by and large, the people have not been traditional Labor supporters. Sadly, not supporting regional South Australia—which makes a key contribution to our state's prosperity—is totally against the best interests of the state.

We see cuts to the primary industries' budget, in addition to increased taxes on rural crown leases. Is this a case of: 'the farmers are doing well, so let's slug them with another wealth tax'? Rural landholders have been hit with an enormous hike in crown land leases and now must pay a minimum of $300 per crown lease, which, in some cases, is a hike of up to 400 times the current rate. The government has ignored the fact that many landholders have multiple crown leases. One property may be on 60 different leases so that that landholder will face an $18 000 per annum fee.

To the general public it may seem reasonable to increase the peppercorn rents—some as low as $1 per year to $300. What the government does not want us to realise is that, across the state, the people holding these leases have actually bought the property from someone else and most have to pay substantial mortgages on it; they then pay an additional annual fee on the various crown leases covering their purchased properties. Again, the Labor government is either penalising those in the rural sector whom it believes have not traditionally voted Labor, or else they have been targeted because, for once, the primary producers are doing well in their business.

I hasten to point out that the farmers of this state often have to do it tough year after year. While some primary producers may have had a couple of terrific years (production and export wise), there are always other rural areas of the state that are suffering. A razor job has been done on primary industries and resources with its budget slashed by 12 per cent. The successful FarmBis program funding has been almost halved and primary producers will have to pay additional fees for business training programs. Transfer of many of PIRSA's functions to the environment portfolio—without any consultation—is an insult to the many rural people involved in land care, soil boards, pest control and our pastoral community, and further proof of Labor's disregard for the rural vote.

Since coming to office this government has done nothing but pay lip service to our rural and regional communities. This budget is the culmination of a growing ALP trend to ignore the needs of rural South Australia in preference to metropolitan areas. The fact that this budget did not include a regional statement—as did previous budgets under the Liberal government—is typical of this government's attitude towards our regional areas. Labor has also chosen to short-change the mining and petroleum sectors by cutting the Targeted Exploration Initiative program by 42 per cent.

This may be a payback to the mining community for its apparent lack of voting support, but can Labor not see how it has also slashed the opportunity for new exploration and future employment? I am sure that members who represent opal-producing areas in the state will be interested to know that Labor also axed a further program, Opal SA. The previous Liberal government put forward a bid of $500 000 for 2002-03, increasing to $1.2 million in 2003-04, and $1.5 million in 2004-05 to help develop and implement a strategic approach for the future development of a sustainable opal industry in South Australia.

Labor has turned its back on Opal SA, and perhaps I should leave it to the member for Giles to explain why to those people in the opal-producing areas of the state. So, too, the member for Giles might explain to her constituents why Outback road maintenance gangs have been cut from four to two. South Australia's network of Outback roads is an integral part of the infrastructure required for the ongoing prosperity of South Australia as they service key industries, namely, pastoral, tourism, mining and communications. In the Year of the Outback, the Strzelecki, Oodnadatta and Birdsville tracks and the Northern Flinders road are probably the most used unsealed roads in Australia at present.

Labor promised all South Australians big increases in health and education without the need to increase existing taxes or charges and without the need for new taxes. Instead, we have cuts to the education budget, no real increase in health spending and educational and operational spending has been cut by a staggering $34 million. Capital expenditure on education has been slashed by some $6 million, with many of the regional school upgrades, such as Ceduna, Orroroo, Boolaroo, Peterborough, Angaston and Gawler put on hold. Again, in health and education this government has shown a complete disregard for people living and working in regional and rural areas of our state.

Country hospitals have clearly been discriminated against in this budget, receiving only 2.4 per cent increased funding, as opposed to metropolitan hospitals that benefit by an increase of 7.1 per cent. Perhaps the most visible regional initiative under this budget is the $400 000 allocated to establish ministerial offices at Port Augusta and Murray Bridge, supposedly for the purpose of regional consultation, but I suspect that the staff in those offices will be more likely to be carrying out party duties at the taxpayers' expense. There are many more disappointments in this budget, and nothing has been done to reduce South Australia's net debt, which is to remain steady at $3.4 billion.

The only good news in this budget is predominantly the good news of the former government for which the present government seeks to take credit. Budget process should be undertaken by a government that accepts that it has responsibilities for all of those people in the state: it should not look after only those who vote Labor or those who live in Labor areas. I just hope that this government will spend some time reflecting on its true responsibilities; that it does become an open and honest government; and that it gives all the people in South Australia a fair share.

The Hon. R.D. LAWSON: I support the second reading of this bill which this year will appropriate for the purchase of outputs some $5.92 billion, down by about $80 million from the similar Appropriation Bill of last year, which appropriated for further outputs some $6.01 billion.

The areas for which I have some portfolio responsibilities are the justice department, the Attorney-General's Department and correctional services. It is interesting to see that the appropriation on this occasion for the Attorney-General's Department, which is included within the Department of Justice, is some $590 million, together with $49 million of administered items in the Attorney-General's Department. Last year, the justice department appropriated some $557 million, together with a further $43 million of administered items through the Attorney-General's Department.

Whilst there has been a lot of crowing by the Treasurer about the success of this budget, and he has combed through the newspapers looking for any comment which seemed at all in favour of the responsibility of this budget, there have been some significant disappointments in the areas for which I have some responsibility. In the correctional services field, for example, Operation Challenge and a number of other programs have been slashed. These cuts, it seems to us, are made solely for the purpose of accommodating some of the industrial demands that are being made in correctional services.

Operation Challenge was a very highly regarded program, and when one reads some of the newspaper reports, especially from Riverland publications—the *River News* and the *Murray Pioneer*, which circulate in the area near Cadell Training Centre where this program operated—one sees not only the use of the program, but the great community support the program had and the good work that was being done. It is difficult to imagine why the government chose to make this cut.

It is interesting to see that even the government's friends in the Public Service Association are raising concerns about the matter. In the most recent issue of the *Public Sector Review*, the PSA speaks of its concerns in relation to the intention to close Operation Challenge. It is described there as:

> . . . a well-established, successful unit for first time prison offenders. The success rate of prisoners not reoffending is approximately 60 per cent. Staff at Cadell have worked very hard and are dedicated to the success of this unit.

The staff in correctional services have been enthusiastic about this program, it has had great results and it has great community support, but it is disappointing that, for some reason, the minister and the Treasurer are unable to provide resources to continue a program which is not only beneficial to the people to participate but also to the community because programs of this kind reduce recidivism, as well as ensuring—to the best extent possible—that people admitted to our correctional centres actually are discharged and may make a more useful contribution to the community after discharge rather than return to some other correctional institution in the future— as so many of them regrettably do. It is a poor decision and one that reflects a poor allocation of priorities.

Another cut within the correctional services portfolio has been to psychological services. The Department of Correctional Services had built up a partnership with the University of South Australia to train psychologists who work in our prisons and provide training to prison staff to better understand the criminogenic needs of people in a correctional institution. In the United Kingdom and New Zealand, programs of this kind have been very successful in reducing the rate of recidivism.

In South Australia, the department was funding a chair at the University of South Australia in the forensic and applied psychology research group. It was, as I said, providing training to our correctional institutions. It was also providing a research facility in this state. That program has been trashed—it is out the door and out the window. It was a program that was really admirable, and very highly regarded, but it has now been abandoned. The member for Mitchell, Kris Hanna, was moved to write an item for publication in the *Advertiser*, complaining about the cut, but he also sought to justify it by saying that 'a tough decision had to be made'. It was not a decision which had to be made; it was a decision that was based on the priorities of this government, and it is lamentable.

The Therapeutic Drug Unit at Cadell is another program which has been cut as a result of decisions made by the Minister for Correctional Services prompted, no doubt, by the budget strictures imposed on him by the Treasurer. Both the Treasurer and the government are culpable for not recognising the needs of this area and allocating funds, but also the minister cannot escape his share of the opprobrium for deciding, within the allocation to his department, that these programs would be cut.

Other programs to be cut in this budget—and tragically cut—relate to crime prevention. The budget papers indicate that one of the targets in the field of preventative services for the coming year is the promotion of 'crime prevention through environmental design principles in the planning and design of public and private space.' That is one of the priorities. On the one hand, they are talking about priority for crime prevention yet, on the other, they have slashed funding for crime prevention.

The justification advanced by the Attorney-General for this cut was that the money was needed for the purpose of employing more lawyers in the office of the Director of Public Prosecutions in Pirie Street, Adelaide. It is always admirable to employ more lawyers: I do commend that but, to give as the excuse for cutting crime prevention programs and removing crime prevention offices in a number of municipalities around the state the need to hire more lawyers because the DPP needs more people to prosecute for serious criminal trespass is not only a meretricious explanation but one that cannot be justified.

We see in the same budget $600 000 cut from crime prevention and $570 000 allocated to the Constitutional Convention. Members on this side happen to support the Constitutional Convention. Constitutional parliamentary reform is something that the Liberal opposition will support. But what has happened is that $570 000 has been taken out of the justice budget and applied to meet the demands of the member for Hammond, Peter Lewis, upon whom the government relies for support. So, $570 000 is plucked out

of crime prevention and put into the Constitutional Convention. The Constitutional Convention is something worth having. The funds for that should have been appropriated out of a central agency—such as the Department of Premier and Cabinet—and not taken away from crime prevention.

The crime prevention programs that were delivered and that were being developed were most promising and the sort of initiative that we as a government and as a community should be pursuing to enable local communities to develop initiatives in local areas. They are small initiatives: they are not big ticket items. They involved volunteers and community organisations—people in the community acting cooperatively to reduce the rate of offending and the fear of crime in our community. It is one of the most important of all the elements in the justice portfolio to be ruined by this decision, this particular allocation of priorities. This budget reflects decisions and priorities of this government that are not at all promising for the future of our state. When a government, within a few months of taking office, destroys programs that have been built up and developed in the community, which are relatively inexpensive and which are very effective does not bode well for the future of community development in this state. I support the second reading.

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

ELECTRICITY (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 August. Page 647.)

The Hon. R.I. LUCAS (Leader of the Opposition): On behalf of the Liberal Party, I rise to support this legislation, which is related legislation to the Essential Services Commission Bill. When we debated the last bill, I was going to suggest that, when the two bills are in committee next week, we could have most of the general discussion on one of the bills and just the detail of some of the specific clauses in this legislation.

I want primarily to address the issue of pricing, in particular pricing as we come into full retail competition. By way of background information, on 1 January next year, full retail contestability (FRC) will be introduced for the 730 000 tranche 5 customers (small customers) who consume less than 160/MWh electricity per annum. This bill inserts the new definition of small customers, which will be one of the issues we need to pursue in the committee stage as to the purpose of that change and the intent behind it.

It is important to place on the record that, when the previous government went through the privatisation process commencing in 1988, we established a framework which provided the greatest degree of protection possible for tranche 5 customers. Tranches 1, 2, 3 and 4 (the bigger and medium sized customers) who became contestable or competitive at earlier stages were treated differently. The households and the very small businesses in tranche 5—far and away the largest number of electricity consumers—were protected right through to 2003.

In 1998, we said we would protect households (the small customers) for approximately the next five years by ensuring that electricity prices did not increase more than the CPI. It is intriguing—a little like the point I made at the end of my previous contribution about blackouts and where people's recollections of what has occurred are distorted significantly by what they hear and what they talk about with friends and neighbours—that during the last two years, I would often do talkback radio or read transcripts of talkback radio where (and I am sure they were not all Labor Party stooges and plants; I am sure some were genuine) listeners were genuinely saying, 'What's this nonsense from the government about no increase greater than the CPI? My electricity this year is $100 higher than it was last year' (or 40 per cent higher, or whatever it happened to be). As you know, Mr President, the reality is that for many customers electricity consumption was significantly higher in some of those periods compared to 12 months earlier. Also, people's perceptions of what they paid previously change.

An honourable member: And the GST.

The Hon. R.I. LUCAS: Yes, after the introduction of the GST prices did increase, so it is right to point that out. As a consequence of what the previous government did there were no increases greater than the CPI, because prices were locked in. Again, this was a decision which impacted on the value of the assets. If we had sold the assets with all consumers contestable within two years or 18 months, the assets would have had a higher value placed on them by potential bidders. However, for the reasons I will go into now—and for some of the reasons I canvassed in the previous second reading debate—the former government was conscious of the need to protect small consumers, in particular, and wanted the longest possible opportunity to learn from the experience of New South Wales and Victoria which were going contestable, I think, two years earlier in 2001.

We believed that there would be significant problems with metering and other similar problems and we therefore chose to deliberately delay contestability for small customers for the longest period possible. In addition to some of the things I outlined in the debate on the Essential Services Commission, we had to decide about disaggregation of the distribution side of the Electricity Trust of South Australia business. We consciously postaged stamped pricing by having only one distribution company in South Australia.

During consideration of the disaggregation process, we looked at what had occurred in Victoria where the distribution company had been disaggregated into five separate distribution companies. In regional communities in Victoria there were potentially more significant price increases because there was no postage stamping of the distribution costs within the one company. For companies in the western districts of Victoria, for example, the costs were higher. They were unable to offset those costs through postage stamping with lower cost city-based consumers.

We were seeing disparity in prices between city and country starting to become apparent in Victoria. At the time, we had advice that we ought to look at disaggregating into a couple of distribution companies. We looked at a number of complicated models of how we would carve up South Australia. One model was a bit like a distribution with spokes coming through Adelaide and taking in parts of the city and parts of the country to try to get over the problems occurring in Victoria, with each distribution company having some city consumers and some country consumers.

We looked at one which split half city and half country, north and south. In the end, a pro competition and pro consumer decision was taken and we decided to form only one distribution company. That did allow, and still does, postage stamping of prices and assists in reducing any potential disparity between country and city consumers.

Again, that decision, together with many others, gives the lie to claims that have been made that the former government was interested in this process only in the value of the assets and was not interested in competition effects or the impact on consumers.

One understands the politics of all this. I have been around for a long time, and those claims are easily made and very hard to argue against in the heat of a period leading up to an election campaign. When other sympathisers, whether they be business leaders or supposed leading economists, hop on board the bandwagon, it makes it difficult to explain the logic of what occurred. I am hoping in these two contributions, albeit in some detail, to place on the public record what the former government did do and did go through, and the fact that it was considering consumer and competition issues.

I do this not in the expectation that we will see a front page in the *Advertiser* but, rather, that the small number of people who look back on the history of electricity privatisation in South Australia will see some of the detail and some of the decisions that were being taken by the then government; as I said, not solely driven, as some have claimed, by the value of the assets but, rather, by a consideration for competition in our marketplace and protection for consumers to the extent that we could.

The other decisions that we were taking for the period pre 2003 for the last tranche of contestable customers was a rapid process of increasing generation capacity in this state. I will not go through the detail again, but it included an extra 37 per cent of increasing capacity in state generation in South Australia; fast-tracking Murraylink; support for Riverlink ultimately; support for SNOVIC of an extra 400 megawatts of power from the Snowy Mountains into Victoria and South Australia; and support for Basslink, which was an extra 600 megawatts of power coming from Tasmania into the combined Victorian and South Australian markets.

Basslink is going through the same problems as Riverlink and SNI. There is huge opposition from landowners, Independent members of parliament and various other politicians, both Labor and Liberal, who oppose Basslink, yet the remarkable logic is that the national market requires Tasmania to be linked through Basslink into the national electricity market. Certainly, the Liberal Party supports all the proposals, and it will continue to support the government in anything it can do to try to see the Basslink and SNOVIC proposals and sensible interconnection proposals wherever they might occur.

Around December last year, as a result of the problems, the government was frank enough to concede that with the grace period customers it had not achieved the competitive market it desired by mid 2001. The advice provided to the government had been that, as a result of the establishment of Pelican Point, and hopefully with the establishment of an interconnector before June 2001, we would see a much more competitive electricity market in South Australia. We did fast-track Pelican Point, but growth and demand outstripped that. Murraylink was delayed. It was not ready by mid last year. As I said, energy is about ready to flow at the end of this month, so it is about 12 months late.

Riverlink, which was first suggested in 1998, still has not started. The Labor government has promised that it will build Riverlink within 18 months of its getting into office. We have 12 months left before we see the Premier proudly standing with the New South Wales Labor government minister by one of those big pylons in the Riverland and saying, 'There you go; our special friendship with Bob Carr has allowed us to fast-track this Riverlink (or SNI) proposal.' Mr President, I am sure that, like me, you will not be holding your breath waiting for that time line to be met. It may be built—it will depend on the National Electricity Tribunal—but, if it is, it will be delayed even further.

As a result of all those problems, the former government decided that it needed to do something additional for tranche 5 customers—the small customers and households. In December, the government made a decision in relation to activating section 35A of the Electricity Act, which provides prices regulation power for the independent Industry Regulator for small customers. Section 35A of the Electricity Act provides:

> Price regulation by determination of Industry Regulator.
>
> 35A. (1) The Industry Regulator may make a determination regulating prices, conditions relating to prices and price-fixing factors for—
>
> (a) the sale and supply of electricity to non-contestable customers or customers of a prescribed class;

That is the key provision. When it passed this legislation in 1998-99, the former government included a clause which provided that, if need be, the independent Industry Regulator could be given the power, if we described a certain class of customers, to regulate prices. I think in the Electricity Act amendments, which I do not have with me, this particular provision is changed marginally in the legislation that we see before us. It includes two or three words, and it changes 'non-contestable customers' to 'small customers'. There is a new definition of small customers, which essentially will be the same group, that is, less than 160 MWh per annum. That is the only change.

So much for the much vaunted Labor government promise about fixing up electricity and providing greater powers for the regulator. When we go to the committee stage of these bills, the minister and his advisers will be forced to concede that the existing power in section 35A of the Electricity Act was sufficient for price regulation. There are other changes which would give the Industry Regulator additional powers if companies were not prepared to work with the independent Industry Regulator in providing information, for example.

The former government was going to have to amend the Electricity Act and the Industry Regulator Act to provide the power in the event that there were those problems with the independent Industry Regulator's getting information from the power companies. In relation to the key power, the head of power, as to whether or not a particular class of customers could have their prices regulated, that power already exists in the Electricity Act introduced by the former government.

One of the issues we will be pursuing during the committee stage is why the government has basically done very little in its first six months. Unless there is a good reason, of which I am not aware at this stage, the existing powers could have been activated by this government back in March or April, with the knowledge that the government was going to introduce this legislation, should the independent Industry Regulator run into problems in terms of getting voluntary compliance with his inquiries.

Having spoken to representatives of AGL and some of the power companies, I would be very surprised to hear that those companies would not have assisted the Independent Industry Regulator in his inquiries, because they would know that at least these particular provisions in legislation would be supported by both the Labor and Liberal parties, given that we had announced similar policies during the election campaign.

Of course, the current government did not want to acknowledge that the policies were virtually the same. It has been wanting to claim that its was a much tougher, more robust, more powerful policy package that had been put together to protect consumers. Frankly, this legislation shows that those claims are a lot of rot. There is no substance at all in those claims. And, as I said earlier, when the fairy floss minister from another place was probed on this issue of what were the greater powers, he was unable to indicate where these greater powers were in relation to a proclaimed class of customers under the old section—or existing section 35A of the Electricity Act.

In talking about pricing—which is obviously critical to this whole electricity amendment bill and also to the debate that has ensued for the past couple of years—it is interesting to look at the scare campaign that had been run by the Australian Labor Party in opposition and by some of its fellow travellers and sympathisers. Literally dozens of similar pieces of electoral material were circulated by Labor candidates and members, but I want to refer to only one of the more gross forms of electoral distortion that we saw. It would not surprise members to know that it came from that welsher from the west, the Labor candidate for West Torrens, Mr Koutsantonis.

I might say, one of my friends tells me that a potential name for one of his horses coming up is 'Koutsie's a welsher' and, hopefully, if that comes to fruition, the fact that the member for West Torrens is welshing on a bet will be known to all and sundry, particularly those who follow the races closely here in South Australia. I am sure that Mr Koutsantonis will read *Hansard* and have a chuckle. This letter, circulated in the first week of the campaign by Mr Koutsantonis, begins:

> Dear Mr and Mrs [I will not mention the name of the couple], Can you afford an 80 per cent increase on your electricity bills? Thanks to the Liberal government, we have paid more for our power and water since they were sold to foreign companies. South Australian small businesses have suffered a further increase in electricity prices and household bills are next.

I repeat, the letter continues:

> Can you afford an 80 per cent increase on your electricity bills?

Various other shadow ministers and Labor members claimed 30 per cent to 90 per cent increases in electricity bills for households post 2003, in an election campaign based on a gross distortion of the facts. Whilst it is easy to make the claim, it is very hard to rationally argue and disprove.

I want to look at some of those other statements that have been made by Labor Party members and, in particular, by the minister. I have lost the exact page reference in *Hansard*, but during the recent debates the Minister for Energy again placed on the public record that there would be a significant increase in price for household customers post 2003. Consistent with that, in an interview on ABC Radio on 3 May this year, the minister talked about how he wanted to make sure that the shock of the introduction of FRC is cushioned as much as possible; he made statements on 25 July highlighting significant increases in electricity prices; and the Treasurer and the Premier made a number of statements about significant increases in electricity prices for households post 1 January 2003.

In addition to those statements that have been made by Labor government ministers—firstly as shadow ministers prior to the election and then as ministers since the election—I want to place on the record some of the statements that have been made by the South Australian Independent Industry Regulator in relation to the possible price increases. In an interview on 5AA on 21 June this year, when he was asked about what would be the price for consumers post January 2003, Mr Owens said:

> I can't promise any good news. . . the news that is around of possible increases of 20 per cent, 30 per cent or more. . . is probably a fair reflection of those market prices that I mentioned. . . what we've gone from is a system where there was an incentive on the old ETSA to try and control its costs to keep them down as low as possible and to pass that on, recovering its costs over time to a system now where there is a market that encourages generators to get the highest possible price, not the lowest possible cost. . . that's what we consumers are now going to be paying for. . .

That was Mr Owens talking of 20 per cent, 30 per cent or more as being a fair reflection of those market prices that were possible. In an article in the *Advertiser* written by Melissa King either Monday or Tuesday of this week, I think, the headline reads:

> Power prices cold comfort for the poor.

In that article the Independent Industry Regulator, Mr Owens, was interviewed. The article states:

> In response to the report Independent Industry Regulator Lew Owens said low income earners whose power was low should be rewarded with lower tariffs. People on fixed incomes did not have the capacity to pay expected rises of 20 or 30 per cent.

Then there is a direct quote, as follows:

> 'The numbers that are being bandied about, I can tell you, are true,' Mr Owens said.

He was clearly referring to this 20 per cent or 30 per cent number. The reason why I place those statements on the record is that I have been approached in recent weeks by a number of people, one being someone who works with a senior interstate regulator, or regulatory authority. I also have been approached by a number of executives who are working within the electricity industry. Those people have expressed concern to me about the comments that have been made by the Independent Industry Regulator.

I say at the outset that the former government appointed Mr Owens to the position of Independent Industry Regulator. It is a thankless task, and he has worked very hard and assiduously in that role. He will continue to have a real challenge as he looks at the price regulation authority for the final tranche of customers. We certainly wish him well in that challenge. The concern that has been put to me is that these people say they have never seen an independent regulator who has to make a judgment about the size of a price increase when his views on the size of the potential increase is indicated on the public record weeks or months beforehand. I refer to that direct quote in the *Advertiser* and the quote on 5AA as an indication that the Independent Industry Regulator has been talking about price increases of 20 or 30 per cent or more even though he will have to make the decision about the correct level of price increase.

Some people have put the argument that AGL will be very happy with the current approach being adopted by both the Labor government and the statements being made by the Independent Industry Regulator, that is, putting out a large number. Eventually whatever is finally agreed—which one would assume will hopefully be significantly less than this number—will be a number regarding which perhaps people will breathe a sigh of relief, and AGL will not attract as much of the odium as it might have in other circumstances if the increase had been speculated, for example, as being 10 or 15 per cent.

As I said, they are the concerns that have been put to me. I must say that I share those concerns, and I place that on the record. All my experience with regulators in my 20 years in the parliament tells me that, if you are going to be making a judgment about a level of price increase, you are not normally in the marketplace talking about what the expected level of the market increase might be and putting numbers on it. Certainly, from the government's viewpoint, again I do not think it assists consumers in South Australia if they continue, as members of the government do, to put in the marketplace significant numbers that indicate a significant price increase prior to any decision that might be taken by the Independent Industry Regulator.

It may well be that that is what the companies bid for, because that is what occurred in Victoria under similar powers. The companies asked for significant increases, and the Regulator there gave them much smaller levels of increase. Our regulator will have similar powers to look at claims from the companies and then to come back with a decision. Our legislation makes clear that the Regulator must look at not only the interests of the consumers but also the ongoing financial viability of the companies in South Australia. The government has made the point—and we support it—that we do not want to have a situation similar to that of California where retail companies go broke because their retail price is too low and their wholesale contract price is too high. That is a recipe for disaster, and none of us would support it.

So, as gently as one can put these things (because it is certainly in nobody's interest for there to be a war waged with the Independent Regulator; and that is certainly not my intention), I place on the record the concerns that some power industry executives have put to me. But, more importantly, the judgment of someone who is familiar with the operations of a regulatory authority in another state—in terms of what is the normal practice for a regulator—was that it is most unusual (which was an understatement) for a regulator to be out there in the marketplace in this way.

Given that we have had claims of 80 per cent increases, and now the regulator and government ministers are talking of 20 or 30 per cent increases or more, I want to place on the public record in broad terms the nature of some of the advice with which the former government was provided prior to its decision to say that we would introduce prices justification powers.

I say at the outset that, with price modelling and forecasting, I am the first to put on the public record that one can never guarantee the accuracy of the advice that the very best forecasters and modellers might provide to the government. I therefore ask the following question. What further advice has the government had since 5 March to update the advice that the former government had on potential price increases for small customers?

I put that caveat on all this, Mr President: that, whilst I will put on the public record some of the advice that the former government received, I acknowledge that in no way can anyone ever guarantee that somebody's best work and estimates will necessarily follow through. I will be interested to see, given that it is almost six months now since the Labor government took office, what follow-up work the government has done in this area.

Through last year the government had established a National Electricity Market Task Force and also appointed consultants named Intelligent Energy Systems, who provided estimates of the wholesale price in the electricity market for 2003 to the National Electricity Market Task Force, and it was obviously also then provided to the South Australian cabinet.

As the minister responsible at the time, in an excess of caution, I also got two further consultants to provide independent advice on the work that IES had undertaken. So, IES did all the hard work. I then asked Price Waterhouse Coopers and Charles River Associates, two groups with significant expertise in the electricity market, to provide commentary and advice on the calculations from IES which had been provided to the task force and to the government.

To outline how they went about their work, IES said that they looked at a range of scenarios. First, they said that a credible assumption would be that the maximum energy pricing contracts for FRC would be comparable to the current level of contestable energy prices in South Australia as set out in the five-year contract offers made by AGL to South Australian grace period customers last year.

That assumption was made by IES on the basis that the gross pool market was non-discriminating; hence, retailers would not be seeking higher energy prices from household customers than they received from other tranches, although the margins might need to be covered to cover the cost of billing systems for the increased number of customers.

IES, in using the energy prices included in the AGL contract offer for 2003, with a peak energy price of $122.84 per megawatt hour, and an off peak price of $39.86/MWh, which is an average load weighted energy cost of $78.65/MWh using year 2000 demand figures with 47 per cent peak and 53 per cent off peak, was the first scenario.

So they thought the worst possible set of circumstances was the first five-year contracts that AGL managed to work into the marketplace during the grace period of time, at the time when they believed they had the maximum power and they believed for a variety of reasons that the pressure would come off prices through 2003 and into the future, but those would be the highest possible prices—and that was, as I said, an average load weighted price of $78.65/MWh.

They looked at a series of households—and I will not go through all the detail. For the average usage household, using 5 137 kilowatts per annum, the annual bill without hot water, if the AGL offer prices stayed in the marketplace in 2003, would increase by on average an estimated 12 per cent—the average means that there are some lower and some higher. The annual total bill, including hot water, estimated percentage increase was 14 per cent. So, without hot water, the increase was about 12 per cent.

IES looked at three other scenarios: what additional capacity might be provided into the market, what additional competition there might be in the marketplace and what impact there might be in each of those scenarios. IES provided pool price estimates for six scenarios ranging from no new supply capacity in South Australia to a high capacity scenario, with all scenarios assuming that 450 megawatts of new capacity would be developed in Victoria. I will look at three of those.

IES scenario 1 calculations are what they call the no development of new capacity in South Australia scenario. IES estimated that the pool price estimate in 2003 would be $58 per megawatt hour, with a retail margin of 5 per cent. Under that scenario—that is, no further capacity development in South Australia but some developments which are online in Victoria—instead of the average 12 per cent increase that I talked about earlier for the average household, under this scenario IES estimated that the price increase in South

Australia would actually be a 1 per cent price reduction for the average household.

IES then looked at scenario 2, which is what it calls medium development (hot summer) scenario, and it incorporated a pool price estimate of $45/MWh and a retail margin of 5 per cent. This medium development scenario assumed that there were 220 megawatts of extra peaking plant, which it said was likely to be operating by 2003, as well as the Murraylink development—which, as I said, will be operational by the end of this month according to the proponents. Under IES scenario 2, for the average household, IES estimated a price reduction of 11 per cent for the average household in 2003.

Finally, IES scenario 3, which is called medium development (hot summer) scenario, has a pool price estimate of $45/MWh but also assumes a higher retail margin based on the AGL-SA offers to grace period customers. Under that scenario, IES estimated for the average household the annual bill without hot water would result in a 9 per cent price reduction.

There are many other estimates, all of which are available to the task force and which were also available to the current government, as they were to the former government. We then asked Price Waterhouse Coopers and Charles River Associates to look at the estimates that IES had done and said, 'Okay, you are independent from them and they have given you these calculations.' Frankly, when I looked at them I thought, 'Are they accurate? And how can we provide greater confidence that they might be close to the mark?'

The advice provided to the government—I do not have the exact words—is something to the effect that they do not disagree with the estimates done by IES. In particular, the advice from Price Waterhouse Cooper refers to the key drivers on energy prices and other factors that would impact on retail prices after January 2003. The government has a copy of Price Waterhouse Cooper's report, which concludes that the majority of the drivers were providing downward pressure on energy prices for 2003. They highlight that there are some unknowns associated with the retail costs and load profiles for small customers. Accordingly, the Price Waterhouse Cooper report provides support for the view that the AGL SA five-year contracts are likely to be at the higher end of possible price outcomes for full retail contestability with actual price outcomes possibly being lower due to the factors highlighted in the Price Waterhouse Cooper report.

Price Waterhouse Cooper looked at a number of drivers such as: forward price level; forecast spot price level; availability of hedge contracts; anticipated spot price volatility; level of retailing costs; degree of retail competition; customer load shape; and AGL pricing strategy. With the exception of level of retailing costs and customer load shape, which they saw as being negative, and the degree of retail competition, which they saw as being neutral, all the other drivers (five of them) they saw as being positive in terms of seeing a reduction in energy prices post-2003. Their overall assessment was 'neutral to positive', that is, given that all but two of the drivers are positive it is considered likely that the energy price outcome would be lower than that included in the AGL offers to grace period customers and hence unlikely that energy prices will be worse.

The other thing that needs to be checked in my question to the Leader of the Government and his advisers is that we have a problem in that these particular figures that I have quoted are load-weighted. Another measure of electricity costs is a volume-weighted spot price. We will need to ensure that we are comparing apples with apples so that there is no confusion. I want to place on the record some information from NECA web sites. This is a volume-weighted spot price which shows that, since February 2002, which is when Pelican Point was fully operational at maximum capacity, in South Australia, the volume-weighted spot price was $45/MWh. Prior to Pelican Point it was $64/MWh. So, we have seen about a 30 per cent price reduction post the establishment of Pelican Point.

Obviously, all that is not due just to Pelican Point but, nevertheless, it is a significant factor. The reason I put the $45/MWh figure there while the other figures I quoted earlier in the Essential Services Commission Bill debate show around $36/MWh is that they are all less than the assumptions in the IES calculations that went to cabinet, which were between $45, $58 and $78/MWh. As I said, there is a difference between load weighted and volume weighted calculations and we need a consistent series to be able to make some sensible judgments. I hope that in the committee stage or during the minister's response to the second reading his advisers can go through the IES scenarios and compare what exists now to try to see which of the scenarios we are closest to, and will look at the capacity increases likely to be achieved. I think that in the peaking capacity we have met those changes.

From the end of this month we look as though we will have MurrayLink operational, so we need to look at the pool price numbers to see which of those scenarios we are in at the moment. That is the sort of work that I hope the government has done since 5 March to check the information that has been provided to the government. The advice that the former government had for the average household was that, if you took what we were told was the worst possible case, the average household might be looking at a 12 per cent price increase without hot water and 14 per cent with. If you took the various IES scenarios, instead of an increase there was actually a 1 per cent reduction, an 11 per cent and a 9 per cent reduction for the average household. Again, some will be higher and some lower with all the qualifications that one puts into these estimates.

I put those estimates on the public record because I am concerned that the market is being softened by these continual claims that we have to expect a 20 or 30 per cent price increase. I do not think that it is in South Australia's best interests that either the government or, frankly, the Independent Regulator continue to use those sorts of numbers, even if in the end, for a variety of reasons, that is actually the case, because I think that that plays into AGL's hands in relation to this process. I think that the minister should not be speculating about the size and extent of the price increase and the independent regulator should not be doing media interviews on the size of the increase. He is there to make the judgment.

As a member of the task force he would have some of this information available. I am sure he would probably have all of it now as the regulator, if he has been working with Treasury officers and with the government. Certainly, with all the caveats about the potential for error and the difficulty of estimating—and I accept all of that—it is a reasonably strong indication that there must have been many other unpredicted factors to have headed in a different direction to justify the claim that we should be looking at 20 or 30 per cent or more price increases for customers after January 2003. The reason I placed on the public record for the first time the advice that was provided to us as a former

government is that I hope to put some rational basis back into this debate about price increases for customers.

It might suit the government of the day to want to continue to play politics with privatisation and to blame the former government, but I am more interested in ensuring that the electricity companies can earn a reasonable rate of return and, more importantly, our consumers in South Australia reap the benefit of some of the changes that we have put in place over the past three years and are not unduly penalised by a public debate and an acceptance that there will be price increases of 20 or 30 per cent or more, so that if someone comes in with a figure of 15 per cent everyone will think that is a huge improvement and a huge benefit.

The final point I will make is that there has been publicity this week in relation to the problems of low income earners. The Liberal government acknowledged that during the election campaign. We approved through cabinet an increase in pensioner concessions of $20, or just over 30 per cent and the concession of $70 was to go up to $90. We announced a policy of introducing a $70 concession for self-funded retirees for electricity for the first time and for some cold, cruel and callous reason the Premier, Treasurer and this government have gotten rid of those concessions for self-funded retirees and pensioners. They were funded and certainly a Liberal government saw them as being important as we prepared for full retail contestability. I intend to explore that issue also in committee.

The Hon. G.E. GAGO secured the adjournment of the debate.

SHOP TRADING HOURS (MISCELLANEOUS) AMENDMENT BILL

Second reading.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): 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 represents a balanced and reasonable approach by the South Australian Government to provide increased flexibility in shop trading arrangements in this state.

The bill has been developed after continuous and extensive consultation with all relevant stakeholders including:

- Australian Retailers Association;
- State Retailers Association;
- Consumer representatives;
- Company representatives from chain and department stores;
- Business SA;
- Property Council;
- Productivity Council; and
- Shop Distributive and Allied Employees Association.

The bill increases the hours available for retailers to trade and provides additional Sunday trading opportunities to all retailers in the metropolitan area.

It provides increased amenity to working families through the ability to do their shopping for extended periods during the week. Additionally, the needs of families and tourists are catered for in the provision of additional Sunday trading arrangements over the summer holiday period.

Importantly, this bill retains protection from unfair practices by landlords for small retailers in the sector through complementary amendments to the *Retail and Commercial Leases Act 1995*. The effect of these amendments is to protect retail tenants in enclosed shopping centres from being required to open more than 54 hours per week or on any Sunday. It should be noted that advice has been received from the industry that 54 hours per week relates to the current hours that most shops trade in South Australia.

The needs of proprietors, retail workers and their families also were considered in the development of this bill. The bill represents a measured response to those who call for complete deregulation of shop trading hours in this state with the resultant negative impact such an approach would have on family life for those who have made a career in this industry.

Another key feature of the bill is a significant increase in penalties for those retailers who seek to break the law and trade outside the confines of the Act. The government has noted the propensity for some large high profile organisations to try to mount a case for public disobedience and flout the will of the Parliament.

The introduction of penalties of up to $100 000 for those who break the law should ensure that the provisions of the Shop Trading Legislation in this state can be adequately enforced regardless of the financial resources available to those who seek to break the law.

Specifically, the bill will introduce the following reforms:

- access to 5 days of Sunday trading prior to Christmas and 5 days of Sunday trading after Christmas to retailers in the wider metropolitan area;
- an extension of week-night trading within the wider metropolitan area to 9.00 p.m.;
- electrical stores within the metropolitan area will be allowed to access Sunday trading arrangements on the same terms as those currently provided to hardware and furniture shops;
- the implementation of a "prohibition notice" regime where breaches of the Act are detected and supported by significant penalties. Additionally, penalties for a range of other offences in the Act, such as hindering an inspector in an investigation, are to be significantly increased;
- outmoded and irrelevant definitions are to be removed from the Act. For example, the definition which seeks to use employee numbers as a measure to decide if an exemption is warranted, is identified as not relevant and can be seen to limit employment within the sector and has been removed. Similarly, s15(1), which allows a "shop keeper of a shop situated in a shopping district outside the metropolitan area" to sell goods to a person "who resides at least 8 kilometres from the shop", provides a loophole within the Act that is virtually impossible to enforce and is to be removed;
- the current complex system of exemptions contained within the Act are to be streamlined and criteria are to be specified for assessing applications;
- exemption powers are to be moved to the minister, rather than the Governor, in line with approaches adopted in more recent Acts; and
- the bill contains complementary changes to the *Retail and Commercial Leases Act 1995*.

The government has indicated publicly that this moderate package of reform is to be introduced on a trial basis. Amendments to the bill in the other place reinforce this trial arrangement within legislation, rather than this being actioned on an administrative basis. The government welcomes this amendment and will develop evaluation methodology for a review of the trial in two years time. It is proposed that the evaluation will be a consultative process and involve the wide range of stakeholders that have been consulted in the development of this bill.

It is anticipated that in any evaluation account will be taken of:

- the use made of the amended trading hours by traders and consumers;
- net impact on jobs within the retail sector;
- impact on economic growth within the sector;
- surveys of traders, workers and consumers; and
- comparison of relevant retail data from interstate.

This government is committed to consultation and has heard and taken account of the views of all contributors to the debate on shop trading hours. This bill represents a reasonable balance of the needs of all stakeholders and I commend it to the House.

Explanation of clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Minister to review operation of Act

This clause provides that the minister must, two years after the commencement of the amendments to section 13 of the principal Act (see clause 11), appoint an independent person to review the operation of the principal Act (as amended by this Act) and to

present a report to the minister. The minister must then cause a copy of the report to be laid before both Houses of Parliament.

Clause 4: Amendment of s. 4—Interpretation

This clause amends section 4 of the principal Act—

- to remove any requirements in the definition of "exempt shop" relating to the number of persons employed in a shop;
- to remove from that definition the paragraph relating to shops having a ministerial certificate of exemption (consequentially to the proposed substitution of section 5 of the principal Act discussed below);
- to insert a definition of the "Greater Adelaide Shopping District";
- to remove the definition of "normal trading hours" (which will no longer be used).

Clause 5: Substitution of s. 5

This clause repeals section 5 (which empowers the minister to issue certificates of exemption to shopkeepers) and substitutes new provisions as follows:

5. Exemptions

This clause gives the minister power to grant or declare exemptions from the operation of the Act, or specified provisions of the Act. An exemption may relate to a specified shop or class of shops or to shops generally. This power is, however, subject to the following limitations:

- An exemption that relates to a class of shops or shops generally or that applies generally throughout the state or to a specified shopping district or part of a specified shopping district, cannot operate in respect of a period greater than 14 days (unless, in the case of an exemption granted in respect of a particular shopping district or part of a shopping district, the minister is satisfied that a majority of interested persons desire the exemption to be declared for a period greater than 14 days (or indefinitely) and gives a certificate to that effect or the exemption relates to a group of shops in respect of which each shopkeeper has made a separate application for the exemption or the regulations prescribe circumstances in which the exemption need not be limited to 14 days).
- An exemption cannot enable all shops, or a majority of shops, in the Metropolitan Shopping District to open pursuant to the exemption.
- An exemption cannot operate in a manner contrary to a ministerial notice under section 5A.
- An exemption cannot operate with respect to section 13A.

The clause also sets out matters the minister is to have regard to in considering an application for an exemption and provides for the imposition of conditions on the exemption and for the variation of revocation of exemptions or conditions. Failure to comply with a condition is an offence with a maximum penalty of $100 000.

5A. Requirement to close shops

This clause gives the minister power to issue ministerial notices requiring the closing of a specified shop or class of shops or shops generally over a period not exceeding 14 days. Such a notice may be varied or revoked by subsequent notice. Contravention of a notice is an offence punishable by a maximum fine of $100 000.

Clause 6: Amendment of s. 6—Application of Act

This clause is consequential to new section 5.

Clause 7: Amendment of s. 8—Powers of Inspectors

This clause amends the powers of inspectors under the Act to clarify those powers and to make them correspond more closely with inspectors powers under other legislation. The penalty for failing to comply with the requirements of an inspector is increased to $25 000 and the offence has been broadened (consistently with other legislation) to encompass hindering or obstructing an inspector or using abusive or threatening language.

Clause 8: Amendment of s. 9—Inspector not to have an interest, etc.

This clause increases the penalty in section 9 of the Act (which requires inspectors to disclose financial interests) from $500 to $5 000.

Clause 9: Substitution of s. 10

This clause substitutes a new provision protecting inspectors from liability consistently with the protection given to inspectors or officers under other legislation.

Clause 10: Amendment of s. 11—Proclaimed Shopping Districts

This clause is consequential to the introduction of a definition of "the Greater Adelaide Shopping District".

Clause 11: Amendment of s. 13—Hours during which shops may be open

This clause amends section 13 of the Act to remove the proclamation making power under that section, to alter the trading hours for the Metropolitan Shopping District, to allow motor vehicle traders to trade until 5 p.m. on a Saturday (without the need for a proclamation), to add shops in the Greater Adelaide Shopping District the business of which is the retail sale of electrical goods to the list of shops that, under subsection (5e), are allowed additional trading hours and to make various minor consequential amendments.

Proposed subclauses (2) and (3) deal with the new shopping hours for the Metropolitan Shopping District. Under the proposed changes shops in this District will be able to open—

- until 9.00 p.m. on every weekday; and
- until 5.00 p.m. on a Saturday; and
- from 11.00 a.m. to 5.00 p.m. on each of the five Sundays immediately preceding Christmas day in each year and—
  - if Christmas day falls on a Saturday in a particular year—on each of five Sundays in a row beginning on 2 January of the following year;
  - if Christmas day falls on a Sunday in a particular year—on each of five Sundays in a row beginning on 8 January of the following year;
  - if Christmas day does not fall on a Saturday or Sunday in a particular year—on each of five Sundays in a row beginning on the first Sunday after 26 December of that year (however, when 26 January falls on a Sunday, this series will be broken and a shopkeeper may not open the shop on that Sunday but may open the shop on 2 February in that year).

Clause 12: Amendment of s. 13A—Restrictions relating to Sunday trading

This clause extends the current restrictions applying to Sunday trading in the Central Shopping District and the Glenelg Tourist Precinct to Sunday trading in the Metropolitan Shopping District.

Clause 13: Amendment of s. 14—Offences

This clause increases the maximum penalties in section 14 of the Act from $10 000 to $100 000, and adds a defence to such offences, consequentially to the introduction of exemptions under proposed new section 5.

Clause 14: Amendment of s. 14A—Advertising

This clause increases the maximum penalty in section 14A of the Act from $10 000 to $100 000.

Clause 15: Amendment of s. 15—Certain sales lawful

This clause amends section 15 of the Act to remove the exemption for shops situated outside the metropolitan area selling goods to persons who reside at least 8 km from the shop.

Clause 16: Amendment of s. 16—Prescribed goods

This clause increases the maximum penalty in section 16 of the Act from $10 000 to $100 000.

Clause 17: Insertion of ss. 17A and 17B

This clause inserts new provisions as follows:

17A. Prohibition notices

If the minister believes, on reasonable grounds, that a person has contravened the Act in circumstances that make it likely that the contravention will be repeated, the minister may issue a notice requiring the person to refrain from a specified act, or course of action.

Contravention of a notice is an offence punishable by a maximum penalty of $100 000 plus $20 000 for each day on which the offence is committed.

A person to whom a notice is directed may, within 14 days, appeal to the Administrative and Disciplinary Division of the District Court.

17B. Power of delegation

This clause inserts a power for the minister to delegate functions and powers under the Act.

Clause 18: Amendment of s. 18—Procedures

This clause inserts an evidentiary provision relating to the measurement of the floor area of a shop.

Clause 19: Amendment of s. 19—Regulations

This clause inserts a regulation making power dealing with the service of notices under the Act (consequentially to other changes included in the measure) and increases the maximum penalty that may be set for contravention of a regulation from $500 to $10 000.

Clause 20: Amendment of Retail and Commercial Leases Act 1995

This clause amends section 61 of the *Retail and Commercial Leases Act 1995* to set a maximum of 54 hours (which does not include any time on a Sunday) as core trading hours in retail shop leases relating to shops in enclosed shopping complexes.

The Hon. R.I. LUCAS secured the adjournment of the debate.

LEGAL SERVICES COMMISSION (MISCELLANEOUS) AMENDMENT BILL

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

CRIMINAL LAW CONSOLIDATION (OFFENCES OF DISHONESTY) AMENDMENT BILL

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

CRIMINAL LAW CONSOLIDATION (TERRITORIAL APPLICATION OF THE CRIMINAL LAW) AMENDMENT BILL

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

LAW REFORM (DELAY IN RESOLUTION OF PERSONAL INJURY CLAIMS) BILL

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

ADJOURNMENT

At 6.25 p.m. the council adjourned until Monday 26 August at 2.15 p.m.