LEGISLATIVE COUNCIL

Wednesday 19 February 2003

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

PAPER TABLED

The following paper was laid on the table:

By the Minister for Agriculture, Food and Fisheries (Hon. P. Holloway)—

SABOR Ltd, Financial Report, 2001-2002.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I bring up the 19th report of the committee.

Report received and read.

The Hon. J. GAZZOLA: I bring up the 20th report of the committee.

NRG ENERGY

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a ministerial statement in relation to NRG Energy Inc. made today by the Treasurer in another place.

STRONTIUM 90

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement on Strontium 90 bone samples made today in another place by the Hon. Lea Stevens, Minister for Health.

QUESTION TIME

BUDGET, MID-YEAR REVIEW

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the minister representing the Treasurer a question about the mid-year budget review and unfunded superannuation liabilities.

Leave granted.

The Hon. R.I. LUCAS: After question time on Monday this week, the Treasurer issued a press statement and publicly released a mid-year budget review. That review, unlike those in past years, was not tabled in the parliament and not made available until after question time on Monday. Buried in the fine print in one of the tables at the back of the review, under 'Non-financial public sector balance sheet', the latest estimate for 2002-03 of superannuation liabilities is listed as being $4.3 billion. When one looks at the commentary in the review, other than this reference to an increase in the liabilities, there is no reference to the size of the increase in liabilities at all, and no other commentary in the review.

For the benefit of members, I refer to the mid-year budget review released in January last year, in the middle of the election campaign, where the same 'Non-financial public sector balance sheet' table listed the superannuation liabilities for the state of South Australia under the former (Liberal) government at $3.3 billion. So, in the 12 months that Mr Foley has been Treasurer, the superannuation liabilities have increased by $1 billion from $3.3 billion to $4.3 billion. Without going through all the detail, because of time, the unfunded superannuation liabilities for the state had been significantly reduced by the former government, from some $4.2 billion down to about $3.2 billion—when they were at their lowest—and in the first year under this Treasurer the liability has jumped by $1 billion.

The press statement that went out from the Treasurer after question time on Monday made no reference at all to this shock $1 billion increase in the state's superannuation. It makes no specific reference to what the impact on the budget of the $1 billion increase will be. My questions are:

1. Why did the Treasurer not mention this $1 billion increase in superannuation liabilities in his press statement and why did Treasury make no specific reference at all in the mid-year budget review to the fact that there had been a $1 billion increase during Treasurer Foley's first year as Treasurer in South Australia?

2. Did the Treasurer or any of his ministerial officers make any changes to the draft mid-year budget review report that was submitted to him? I have been advised by a senior Treasury source that the Under Treasurer submitted a draft copy of the report. The leader of the government laughs: let him deny this if he wants to. I am happy to make this statement inside the house and outside. I am advised that the Under Treasurer submitted a draft copy of the report to the Treasurer and to his office, so I ask whether or not any changes at all were made by the Treasurer or his ministerial officers to the draft report submitted to him by the Under Treasurer.

3. Will the Treasurer now bring back an urgent report on Funds SA's management performance of funds under its control for the calendar year 2002 (from January to December), with a comparison as to its performance with other established funds managers? I refer to the fact that there are established superannuation funds management industry indices against which Funds SA's performance has, in the past, been measured and can be measured again.

4. Will the Treasurer also outline the performance of Funds SA from the period of March 2002? He should have now at least the preliminary results from January 2003 for that period. What is the Treasurer's assessment of the likely prospect of the $4.3 billion figure being met?

5. Does the Treasurer agree that the assumptions that he has made in this estimate of $4.3 billion are likely to be met? Certainly, on my and others' initial analysis, it would appear that the assumptions are realistic and that, come the May budget this year, we are likely to see a higher figure indeed even than $4.3 billion.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Obviously, the Leader of the Opposition has asked a number of detailed questions in relation to this matter, and I will ask the Treasurer to respond. I have not discussed the matter with the Treasurer but, having an interest in this issue, I have myself read the mid year budget review. I notice that in relation to operating expenses, the following statement is made under the topic 'Nominal superannuation interest expense'. This comes from the web and is part of the mid year budget review. It states:

> The nominal superannuation interest expense on unfunded superannuation liabilities has been revised upwards across the forward estimates since the 2002-03 budget. An earnings rate of 7½ per cent per annum for superannuation assets was assumed for the 2002-03 budget and forward estimates. The actual earnings achieved by Funds SA for the six months at the end of December 2002 was approximately negative 4 per cent. This is consistent with the recent poor performance of domestic and international equity markets.

Assuming that a rate of 7½ per cent per annum is achieved for the remainder of 2002-03, the resulting annual rate will be zero. This assumption has been factored into forecasts in the mid year budget review. As a result, unfunded superannuation liabilities are expected to be higher in 2002-03 and the forward years relative to expectations at budget. Uncertainty in world equity markets continues to present a significant risk to the level of unfunded superannuation liability.

Like a number of other members, I have some funds invested in various funds from previous employment. In one case, I think that my funds are worth less now than they were in June 1999. It is pretty obvious that equity markets—

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: Sorry, what's your problem? I think that the Hon. Caroline Schaefer seems to have a problem. I'm not sure what it is. As that statement says, there is uncertainty in world equity markets at the moment which, of course, affects returns of all superannuation funds. All I have done is simply read something out from the mid year budget review statement. However, since the leader has asked a number of more detailed questions, I will refer them to the Treasurer for a response.

GOVERNMENT SERVICES REPORT

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Correctional Services, representing the Minister for Justice, a question about the report on government services.

Leave granted.

The Hon. R.D. LAWSON: The recently released 2003 report on government services issued by the Productivity Commission identifies a number of matters relevant to the South Australian justice system. I will mention a couple of them. First, the report notes that people gaoled once in South Australia are less likely to reoffend than anywhere else in Australia. Just one in five prisoners in this state is gaoled a second time, compared to 46 per cent in Western Australia and 45 per cent in New South Wales.

Secondly, in relation to police, it is recorded that South Australia has the second highest number of police—31 police officers for every 10 000 people—and that spending is high. However, in section 5.41 of the report, it is noted that spending on crime investigations in this state is the lowest in the country at $55 per person compared to the maximum of $124 per person in the Northern Territory.

Thirdly, it is noted that criminals are less likely to be convicted of a crime in South Australia in a higher court than elsewhere in this country.

In relation to the courts, the report notes that expenditure in South Australia per finalisation in the District Court, at some almost $8 000, is the highest in the country.

Finally, in relation to motor vehicle thefts, it is noted in the report that more vehicles per person are stolen in South Australia than in any other state. My questions to the Minister for Justice are:

1. In relation to each of the matters mentioned, has he made inquiries to ascertain why South Australia stands out with respect to national averages?

2. Will he provide details of the circumstances which yield those results?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his important questions, and I will refer them to my colleague in another place and bring back a reply.

ROFE, Mr P.

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Attorney-General, a question about public confidence in justice administration.

Leave granted.

The Hon. A.J. REDFORD: On Monday night a report appeared on Channel 7's *Today Tonight* program concerning the Director of Public Prosecutions and his frequent visits to TAB premises during working hours. Yesterday, the Attorney-General—who is not now known for keeping confidences—said:

In the government's view, the people of South Australia are entitled to rely upon the public and private conduct of public officers, such as Mr Rofe, as being beyond reproach.

In describing Mr Rofe's conduct, he went on to say:

It may have had the effect of diminishing public confidence not only in his own performance but in the performance of the DPP office he leads.

Notwithstanding that statement, the only thing the Attorney-General has done to restore public confidence is to ask the DPP not to do it again. The Attorney-General claims that the DPP is 'independent of direction or control by the Crown or any minister or officer of the Crown'. However, section 9(2) of the Director of Public Prosecutions Act—a section of which the Attorney-General is well aware, as he constantly drew the Hon. Trevor Griffin's attention to it on the issue of sentencing appeals—provides:

The Attorney-General may, after consultation with the Director, give directions and furnish guidelines to the Director in relation to the carrying out of his or her functions.

So much for the Attorney-General's emulation of Pontius Pilate! In today's paper and on last night's *Today Tonight* program, the response from a vast majority of the legal profession was to shoot the messenger, that is, criticise the media outlet. Indeed, from the Stuart case to the Splatt case to now, the media has played an important role in assisting the public in scrutinising the administration of justice in this state—a point well made by Marie Shaw QC in a speech made at the Prospect Town Hall in November 1999. In any event, public confidence in our justice system is paramount, and it has been rocked over the past few weeks. My questions are:

1. Has the Attorney-General undertaken an independent assessment of the performance of the DPP's office to ensure that its performance has been unaffected by Mr Rofe's conduct?

2. If he has not, will he move to have an independent assessment so that public confidence is restored?

3. How many people have left the DPP's office over the past 18 months, what were their positions, and why did they leave?

4. Other than on the Channel 7 report, were any concerns expressed about the performance of the DPP office or the DPP to the Attorney prior to last Monday and, if so, what were they?

5. Did the Attorney consider using section 9(2) before making yesterday's statement and, if he did, then why did he not use a section 9(2) direction? Why did he not explain why he chose not to use a section 9(2) direction in his statement to parliament yesterday?

The PRESIDENT: Before the minister answers that question, that contribution contained a lot of comments and some disparaging remarks towards ministers in another place.

I do not want this chamber to be a sissy's paradise, but I ask members to, in future, confine their comments to the facts and not make disparaging remarks about other members of parliament.

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

RADIOACTIVE WASTE

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement on taking seriously our responsibility on radioactive waste in South Australia, made by the Hon. John Hill, Minister for Environment and Conservation.

FOOD HYGIENE

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question on food hygiene.

Leave granted.

The Hon. R.K. SNEATH: With the advent of the new South Australian Food Act there have been many references to food safety. We will long remember the tragic Garibaldi incident. What current arrangements with regard to meat hygiene are in place to minimise the risk of similar incidents in the meat industry?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for his important question. South Australia's meat hygiene program resides within the Department of Primary Industries and Resources. The program has been operating since 1994 with the objective of ensuring the wholesomeness of meat throughout the processing chain, enabling a high degree of confidence in the product for market accessibility and consumers. PIRSA manages the program by applying a co-regulatory model and by working closely with the lead food safety organisation, the Department of Human Services. An independent study took place in 2002 to verify the effectiveness of the programs and of regulations for standards.

The study has shown that South Australia's meat hygiene and food safety standards have improved since PIRSA's meat hygiene program was implemented. The report's findings include:

- significant improvements in the hygiene status of South Australian meat;
- food safety hazards have been mitigated by improved standards;
- the hygiene quality of beef and sheep carcases is equal or superior to national and international benchmarks (one example illustrated sheep meat in South Australia being of a superior hygiene quality to that examined in a recent study in the United States);
- a radical improvement in the manufacture of fermented meats (cooked and cured smallgoods are of high hygiene quality);
- significant improvements in temperature control of meat and meat products;
- more than 600 businesses have implemented food safety based quality assurance programs;
- around 5 300 audits of premises and 1 500 audits of transport vehicles took place between 1995 and 2002;
- industry complied with national standards in 99 per cent of instances in 2001-02;
- there is a significant improvement in the temperature control of meat and a high conformance with national standards for transporting meat.

As a result, we can say that the picture has certainly improved and many positives have resulted from the increased focus on food safety. There is a greater awareness of what needs to be done to ensure that our food is safe and, to all intents and purposes, industry has exhibited a strong desire to cooperate with the increasing demands placed on them. That is good news for South Australia.

GENETICALLY MODIFIED FOOD

The Hon. IAN GILFILLAN: I seek leave to make a belief explanation before asking the Minister for Agriculture, Food and Fisheries a question about genetically modified crops in South Australia.

Leave granted.

The Hon. IAN GILFILLAN: Last Sunday was the closing date for submissions to the Gene Technology Grains Committee paper entitled 'Canola Industry Stewardship Protocols'. The Gene Technology Grains Committee is charged with the following task (and I quote from the draft protocols):

> . . . on behalf of grains industry and government stakeholders has been to develop protocols, based on a strategic framework, to enable the coexistence of different grain production systems and supply chains.

This discussion paper is, and continues to be, of concern to farmers in South Australia for two reasons. First, the many farmers to whom I have spoken have been unaware of the draft protocols, which raises the question about the transparency with which they are being developed. Secondly, the content of the draft protocols (which I have scanned) include such guidelines for the on farm use of GM canola as the use of five metre—

The PRESIDENT: Order! There is too much background conversation. I am having trouble hearing the Hon. Mr Gilfillan.

The Hon. IAN GILFILLAN: Shall I speak up, sir?

The PRESIDENT: No, you are fine. They will just be quiet, as they are required to be.

An honourable member interjecting:

The Hon. IAN GILFILLAN: You can hear who—the President or me?

An honourable member interjecting:

The Hon. IAN GILFILLAN: The member is multi skilled if he can speak and listen at the same time. Secondly, the content of the draft protocols include such guidelines for the on farm use of GM canola as the use of only five metre buffer zones to ensure the identity preservation of the non-GM crops grown alongside GM canola.

I expressed my concern to Dr Fay Stenhouse, who is the Secretary of the GTGC, and requested that the time for submissions be extended. I have had a response from Dr Stenhouse, in which she makes certain remarks. She declines any extension of the deadline, saying it is unnecessary, and she says that such requests misunderstand the function or nature of the protocol. She says:

> First, the protocol is neither a universal governing document for the introduction of GM canola, nor is it a formal instrument for consideration by the OGTR or any other public body.

But she goes on to say:

> . . . the protocol is a reference point for farmers, governments and technology companies who wish to understand the fundamental

requirements for the coexistence of GM and non-GM canola. It is therefore a practical procedural manual, rather than a political document, and is understood as such by the oilseed industry.

No-one is arguing that this is a political document, but the point is that most producers in South Australia believe that the existence or coexistence of GM and non-GM crops is absolutely critical and has to be satisfactorily determined before there is any introduction of genetically modified canola into South Australia. My questions to the minister are (I am assuming he is aware of the draft protocol):

1. Did the South Australian government make a submission to the GTGC, and does he believe that there should be an extension for further submissions to be made?

2. Does he believe that the recommended farm buffer zone of five metres between genetically modified crops and non-genetically modified crops—in this case, canola—is adequate to safeguard the integrity of the crops?

3. The minister indicated in an answer to me yesterday that he does not believe the Tasmanian moratorium is a strategy to protect the non-GM from GM crops in South Australia. If that is not a strategy, what is the government doing to protect the non-GM crops from GM crops?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The Hon. Ian Gilfillan asks a very important question. The segregation of GM from non-GM crops is, of course, a key issue within the whole GM debate. I think what has happened in this country over the past couple of years following the passage of the commonwealth act is that issues relating to health and environment are now properly matters for the Office of the Gene Technology Regulator. In relation to the application by various companies to commercially grow canola crops in this country, that matter is still before the OGTR.

As far as I am aware, the OGTR still has the clock stopped on that process to resolve issues related to health and environment in relation to GMO crops. However, in relation to the marketing issues—which are, essentially, where state powers, or the state role, in relation to the introduction (should it happen) of GMO crops resides—it is in that area where some of the more complicated issues are, and that is where the segregation issue is paramount.

Certainly industry has been undertaking work of its own volition in relation to this. Earlier this year I met with some of the leaders of the major grain industry companies in the state—Ausbulk, AWB and ABB—and spoke to them about some of these issues. Quite clearly, it is those grain companies that will be purchasing the grain, selling it, handling it and so on. They are the primary source of information in relation to economic issues and the marketing of crops—be they GM or non-GM crops, and also they are in the best position to understand the situation in the international marketplace as to whether overseas competitors will penalise this country if it is growing GM crops. So it is very important that information from those key industry sectors be fed through the system to farmers who ultimately will make the decision.

I have written to the two major companies that propose to introduce GM canola into this state. It is my understanding that, if in fact the clock is resumed in relation to the OGTR's decision that, in time, GM crops could be introduced, then those crops will not be introduced into South Australia this year. In the meantime, we have the select committee proceeding under the chairmanship of the Hon. Rory McEwen in another place. I hope that one of the important tasks of that committee will be to look at this very important question of segregation. That really is now the key issue in relation to the GM issue in this country.

The health and environmental issues are being examined at a commonwealth level. It is really the marketing issues that are the most complex and difficult ones. As I have indicated in previous answers, they do have significant implications for agricultural trade. It is not just a question of whether or not there are premiums in relation to having GM-free products. There is also the question as to the impact of the application of GM crops in this state on our markets and other markets. There is some evidence, particularly in Europe, that some countries have been using the GM issue as a non-tariff trade barrier. That further complicates the whole consideration of these issues.

It is certainly my wish that the select committee look very carefully at the issue of segregation. The honourable member raised the issue of the appropriate size of buffer zones. That particular issue might well be a matter for the OGTR because that would probably come into calculation in relation to the environmental effects of crops. I hope that the select committee will be able to properly examine the whole question of segregation and make some recommendations.

Until those issues are clarified, certainly this government will do everything within its power to prevent the introduction of the commercial application of GM crops. That would certainly be for the next 12 months at least. What we do when we get the report of that committee is something we will look at then, but in the meantime, the government will do what it can to prevent the application of crops here until those very important issues of segregation are resolved.

The Hon. CAROLINE SCHAEFER: As a supplementary question, will the minister answer the Hon. Ian Gilfillan's question as to whether this government put in a submission to the committee that is preparing a segregation protocol for canola within Australia?

The Hon. P. HOLLOWAY: I do not know whether technically it put in a submission, but obviously officers of PIRSA have worked closely with industry in relation to these matters. As I indicated earlier, in many ways the major grain handlers such as AWB and ABB are really in the best position to understand some of the commercial issues in relation to the application of GM crops. What I have done in my meetings with those bodies is to encourage them (and I hope to meet with them again in the next month or so) to get some information that we can use. One of the difficulties that my department would face, for example, in dealing with this issue, is getting the expertise about what is happening in the international marketplace.

Clearly, those major grain players are the ones best placed to have that information, so one of the reasons I met with the grain leaders earlier last month was to try to arrange some exchange of information so that we are better prepared about the commercial issues relating to the GM application of crops. Specifically, I will see whether a submission has been made to the committee. Certainly, officers of my department are in regular touch with the industry to ensure that they are abreast of what is developing on this very important issue.

The Hon. CAROLINE SCHAEFER: As a supplementary question, how is it that the minister does not know whether or not a submission has been put in when he in fact has a serving member from his department on that committee?

The Hon. P. HOLLOWAY: It is incredible: of course we have involvement; my department is involved. Yes, he is involved. Yes, our department has a very significant input. At the last Primary Industries Ministerial Council I actually raised this issue with the federal minister; I spoke to him personally. I have written to the federal minister and also been over to Canberra to visit the Office of Gene Technology Regulator. I would like to think that, as a result of some of the actions I have taken in relation to this matter, we have firmly put on the agenda the consideration of this whole segregation issue. As to whether or not we have technically put in a submission, quite frankly, I am involved in far more important issues in relation to this. As to this technicality, just to please the Hon. Caroline Schaefer I will bring back a response.

SPEED CAMERAS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the minister representing the Minister for Police questions regarding speed cameras.

Leave granted.

The Hon. T.G. CAMERON: The state government is to introduce a 50 km/h speed limit from 1 March on all local roads unless signposted otherwise. The RAA, a long-time advocate of a 50 km/h speed limit on local roads, has concerns about the blanket approach, saying that it will frustrate motorists. Traffic and Safety Manager, Chris Thompson, was quoted in the *Advertiser* as follows:

> While we are very strong supporters of the 50 km/h speed limit, we always said there would be roads that would require higher limits, if conditions are safe enough on some city roads for a higher limit. If roads like these are 50 kilometres there will be poor compliance, meaning there will be a lot of people receiving expiation notices, in our opinion quite unnecessarily.

Mr Thompson went on to say that major roads should be tested to determine the best speed limits for them. Quite clearly, the RAA has similar concerns to my own regarding the impact of the new 50 km/h speed limit on South Australian motorists. In some suburbs we could see a number of speed limits imposed within a short distance, including 25 at schools, 40, 50, 60, and even 80 kilometres. Who would not be confused? My questions to the minister are:

1. Considering the impact that the new 50 kilometre speed limits will have on motorists, has the government undertaken any studies to determine how many additional speeding expiation notices could be issued, how much additional revenue could be collected and how many people may lose their licences as a result of demerit points?

2. If so, can a copy of the reports be made available publicly and, if no report has been undertaken, why not?

3. Will the minister supply a list of all major roads where the speed limits have been reduced as a result of the new speed limit regime?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): In relation to the first question, the honourable member said that there might be public confusion. It was my understanding that, after the introduction of these new limits, the government will have a three-month period to give the public ample time to adjust to them. I will refer those questions to the Minister for Police and bring back a reply.

MINISTERIAL RESPONSIBILITY

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about ministerial responsibility.

Leave granted.

The Hon. J.S.L. DAWKINS: Members are aware that one of the first actions of the Labor government was to transfer ministerial responsibility for animal and plant boards, soil boards, the Pastoral Board and so on from primary industries to the Minister for Environment and Conservation. This move was seen by some in the community as a possible precursor to the government following the Victorian model of one super department of natural resources and environment, which combines primary industries and the environmental sector into one massive department.

However, it seems that the Victorian Labor government has had a change of direction in this area. Following its re-election late last year, the Bracks government has split the Department of Natural Resources and Environment into two and has re-established the Department of Primary Industries, which will include the areas of agriculture and fisheries. A media release issued by the Victorian Premier on 9 December last year stated:

> The new Department of Sustainability and Environment will deliver a systematic and long-term approach to improving the sustainability of the whole state in the areas of conservation, water recycling, greenhouse gases, industrial waste and planning. Water and the environment are significant challenges for government and all Victorians. This new department will provide a seamless whole-of-government approach to ensure that the government can achieve its environmental goals into the future. A separate Department of Primary Industries will take over the areas of agriculture and fisheries.

My questions are:

1. Does the minister support the Victorian government's move to make a clear distinction between the environment and primary industries agencies?

2. Does the minister agree that organisations directly related to sustainable primary production, such as soil boards, animal and plant boards, the Pastoral Board and landcare groups should come under the responsibility of the Minister for Agriculture, Food and Fisheries?

3. In particular, does the minister agree that he and his department should have a strong input into the branched broomrape eradication program in the Mallee region, rather than that program being totally under the environment and conservation portfolio?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The honourable member is correct that there has been some restructuring in Victoria of the model that the Bracks government inherited from the Kennett government when, in fact, I think there were only six super departments in Victoria. That structure was retained by the Bracks government during its first term, but it has now been changed.

The structure of our department is that which was put forward at the last election. It was Labor Party policy that a new agency to deal with water, land and sustainability issues would be created. In fact, this state has three departments which operate within the land and resource area: my Department of Primary Industries; the Department of Water, Land and Biodiversity Conservation; and the Department of Environment and Heritage. I think the philosophy is clear. The Department of Primary Industries is an economic

development agency, although it does, of course, have concern for the sustainable development of the—

Members interjecting:

The Hon. P. HOLLOWAY: We copied your policy, did we, for the same amount of money? Tell me, former treasurer, would you have approved it? It was the first budget bilateral that the Hon. Caroline Schaefer put up. Would you have approved it if, in a great misfortune to this state, you had been returned as treasurer back in 2002? Along with losing $140 million on the NRG contract, would you have thrown that one in as well?

The structure of this government is that there is the department for primary industries and resources, which is a development agency, although obviously sustainable agriculture is important for the growth of the industry. We then have the other agency of water, land and biodiversity conservation which has a principal focus on those sustainability issues. Then we have the Department for Environment and Heritage which looks at environmental issues and control of state owned land. That is the structure that we set up in this state after the election. It was in accordance with the policy that the Labor Party put to the people of this state. Obviously, what has happened in Victoria under the Bracks government is that, essentially, it is moving in the direction which the Labor Party in this state set up last year following the election.

In relation to branched broomrape, my department does have some involvement in the issue. Clearly, for as long as that program has been in operation the officers in the Animal and Plant Control Commission have had principal control of the issue. It is entirely appropriate that they continue to run the program, which they have run fairly effectively. If there are issues in relation to development, agriculture, and so on, which concern my department in relation to the branched broomrape issue, then obviously we will be involved. Branched broomrape is a pest plant which needs management, as such, and the Animal and Plant Control Commission is the appropriate body to do that.

BARLEY MARKETING ACT

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the Barley Marketing Act review.

Leave granted.

The Hon. CAROLINE SCHAEFER: Barley produced in this state provides 35 per cent of the grain revenue for South Australia. It is a large export. South Australia grows arguably the best malting barley in the world and certainly the best malting barley in Australia. It produces $1.696 million worth of revenue to this state and is vital to the grain growing area of Yorke Peninsula. The Barley Marketing Act is currently being reviewed, as was set up three or four years ago by the previous government. My question is: why has no public consultation taken place as part of this review?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The Barley Marketing Act review is required under the Barley Marketing Act. It is also required by the National Competition Council if this state is to qualify for national competition payments, which run into many tens of millions of dollars. A major review of the Barley Marketing Act was undertaken several years ago—three or four years ago, as the honourable member said. As a result of that review, the Kennett Liberal government in Victoria deregulated that part of the Barley Marketing Act that applied to their state. I should point out for the benefit of the house that the Barley Marketing Act was originally a joint operation between South Australia and Victoria because the former barley board had single desk purchasing rights in both South Australia and Victoria, but the government of Victoria pulled out of it several years ago as a consequence of the CIE review.

As I said, there is a requirement to have a review under the act. It was my concern that the review should be undertaken at reasonable cost to the taxpayer. One can question whether in fact there is a need to have very expensive reviews of the Barley Marketing Act every few years but, nevertheless, that appears to be a requirement of the National Competition Council. My department negotiated with the National Competition Council to ensure that the review of the act would be undertaken at minimal cost to the taxpayers of this state but would still fulfil the functions required of the National Competition Council.

In relation to public consultation, I make quite clear that there is little doubt that the vast majority of grain growers in this state—well in excess of 90 per cent—would strongly favour the retention of the single desk. However much public consultation we had would reinforce that view, so the question is not in doubt. Rather, the terms of reference of the Barley Marketing Act review are to update the changes that have occurred in the barley industry following the previous review, and that includes the deregulation in Victoria, and developments in Western Australia where there are interesting new arrangements in relation to the single desk in that state.

The Western Australian equivalent to our bulk handler and barley board have been merged by the government, and the single desk has been placed in the hands of the committee rather like the wheat export authority at the federal level. These are some of the developments, and essentially the review being undertaken of the Barley Marketing Act is to look at those changes in relation to the barley industry since the last review a few years ago. In relation to the views of barley growers in that state, there is absolutely no doubt where they stand.

The Hon. CAROLINE SCHAEFER: By way of supplementary question, does the department intend to publish a discussion paper or its recommendations prior to the act coming back to this parliament, or are growers to be consulted at any stage on the government's recommendations?

The Hon. P. HOLLOWAY: The Barley Marketing Act review is an independent body—a requirement of the national competition policy. The chair of the review is Professor David Round of Adelaide University. It involves a representative from the grain industry and Mr Ian Kowalick, a former chief executive officer of the Premier's office. The membership of that review team was subject to negotiation to satisfy the requirements of the National Competition Council and to satisfy industry involvement. That is the make up of the committee. It is an independent body and obviously the course that committee will take is to a large extent in its hands. At this stage I understand that it is compiling a review of the changes that have occurred in the barley industry over the past three years, and I will be guided by its recommendations in relation to what further representation it wishes to take in relation to this matter.

NARUNGGA NATION

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the *Narungga Nation* book launch.

Leave granted.

The Hon. J. GAZZOLA: I understand the Minister for Aboriginal Affairs and Reconciliation attended a book launch last Saturday. Dr Doreen Kartinyeri wrote *Narungga Nation* and the launch was held at Point Pearce on Yorke Peninsula. I further understand that Dr Kartinyeri's work in *Narungga Nation* deals with the history and genealogy of the Point Pearce community. Given the importance of history and genealogy to indigenous people, will the minister inform the council about the book launch?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question and, more importantly, his constant interest in matters impacting on Aboriginal people. The honourable member was in Wallaroo when I was at the book launch, talking to people about the issues associated with their community. I attended the launch of Dr Doreen Kartinyeri's book called the *Narungga Nation* at Point Pearce. There was a gathering of some 1 200 people, as the honourable member said.

More importantly, I think, it was not just a gathering for the book launch, but also for drawing Point Pearce people back to that community, which has been at a low ebb for a long time and which is now rebuilding. The capacity of that community to assist in its rebuilding to a point where it can thrive, with some of the challenges that will come before it, was pleasing to see.

The book, that was put together by Dr Kartinyeri with the assistance of local people and the money that was provided by the Native Title Unit of ALRM, certainly could be used as a template for other communities to record their history and to show the rest of the state the problems associated with breakdown within Aboriginal communities and the disintegration of aggregated Aboriginal nations into dislocated communities. I think that that is important. It is also important for legislators to understand some of the problems involved in bringing communities back together again to achieve pride and ownership of communities being back together, and this is what the book sets out to do.

Certainly, the speakers who made contributions all mentioned the importance of community and their position in it, and certainly made reference to their elders and to their pride in their families. The speakers included Deanne Fergie, Steve Hemming, Klynton Wanganeen (Dr Kartinyeri's son), Elaine Newchurch (a Narungga elder) and Jeffrey Newchurch, and the closing comments were by Kirk Newchurch. The book goes some way towards broadening our community understanding of the problems associated with dislocation, but it also goes a long way towards bringing the community and families together to show some pride in their history and their genealogy. Hopefully, the bringing back of community will bring with it the skills and professionalism required to administer a lot of the programs—health, education and housing—within these communities, and I think that the book launch did something towards that.

TAFE SYSTEM

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Tourism, a question about the TAFE system in South Australia and enrolment numbers.

Leave granted.

The Hon. KATE REYNOLDS: An issue with respect to secondary school students enrolling in vocational education and training courses offered by TAFE has been brought to my attention. As I mentioned yesterday, there are many serious problems within the TAFE system in South Australia, as identified by the Kirby report, which was released earlier this month. Further to the governance, leadership and financial woes that TAFE is grappling with at present, concerns about fraudulent enrolments have been raised with me.

The current TAFE system of accrediting students creates an onus of proof whereby the administration of each institute must prove that students have failed or withdrawn from subjects that they were enrolled in rather than demonstrating that they have earned a pass achieved. This system could be viewed as being wide open to abuse by those institutes or programs attempting to inflate student enrolments in an attempt to gain additional funding for students who have not met the assessment requirements. Additionally, secondary school students are likely to have a poor awareness of exactly how their VET enrolments and results are processed due to their inexperience within the tertiary education sector. This leads to a situation where students may be unaware of the subjects in which they are enrolled, or be given certificates of completion for courses in which they have never been enrolled.

Information has been provided to me demonstrating a possible case where this has happened to a year 10 student. The student had already completed some study with TAFE through a VET program. He then wanted to enrol in a higher level certificate and presented a statement of results which listed the subjects he had supposedly completed previously. The staff members processing his enrolment application expressed concern that, in his previous studies, it was simply not possible that he had completed the modules shown on his notification of results, which included subjects such as 'prepare chemicals and biological agents', and 'weld using oxyacetylene welding processes'. While the Democrats wholeheartedly encourage the inclusion of vocationally-based training through the TAFE system—

Members interjecting:

The PRESIDENT: Order! There is too much audible conversation in the chamber.

The Hon. KATE REYNOLDS: —some of the enrolment processes and claims about the numbers of VET students participating in TAFE courses are cause for serious alarm. For example, in 1977 there were 2 417 students enrolled in the VET in schools program. By 2001, there were 15 435 students in that same program. This is an increase of almost 550 per cent which means that, supposedly, 71 per cent of all students—all students, that is—studying at year 11 or 12 are spending just over half a day a week studying VET modules.

My questions to the minister are: is it the minister's view that the previous Liberal governments' attempts to corporatise TAFE have caused some TAFE institutes to inappropriately enrol secondary school students in VET courses? What procedures are currently in place to carry out probity audits for TAFE student enrolments, and what procedures are

currently in place to carry out probity audits for TAFE student results and for the issuing of parchments?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take those important questions to the minister in another place and bring back a reply, but I suspect the answer to the first question is yes.

COUNTRY FIRE SERVICE

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Emergency Services, a question concerning the Country Fire Service.

Leave granted.

The Hon. A.L. EVANS: I am putting this question as a result of a call made to my office by a member of the public who lives in the Stirling council area. Her grievance is with the Country Fire Service. She advised that during the fire danger season, many CFS fire stations in the Hills district no longer sound a siren from their stations when a fire outbreak has occurred in their council district. With the advent of technology, workers are called through a pager. In addition, rather than listening to the sounding of a siren, residents have to keep their ears to the radio to hear updates on major AM and FM radio stations of fire warnings.

From the caller's point of view, the sounding of a siren when there is an actual blaze is still a very useful device. It immediately warns residents that a dangerous fire is active and it will alert all residents in the district and surrounding districts to recognise that the community is in a clear and present danger and they should take appropriate action. My questions are:

1. Can the minister confirm that the practice of sounding sirens for country fire stations to warn residents that there is a fire in the district during the fire danger period is no longer carried out across the Hills district?

2. Will the minister consider the reintroduction of sirens as a device to complement the current practices to warn Hills residents that a fire in the district is a practicality where properties are in clear and present danger? If not, why not?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for his very interesting question. As a person who lives in the Adelaide Hills, I think it is a very good question. I am certainly aware that I still hear the sirens sounded once a week for testing, but I would imagine the callouts for the CFS in those areas not only involve fires but a number of other emergency incidents, such as car accidents and so on, when CFS officers are involved. That may not necessarily require the sounding of a siren.

As a resident of the Hills, I certainly take the point made by the honourable member that some sort of warning about the presence of fire is something worth looking at. I will take the honourable member's very important question to the Minister for Emergency Services and seek a response as soon as possible.

The Hon. SANDRA KANCK: As a supplementary question, in considering this question, would the minister consider making an exemption for people who live in areas that used to be rural but are now urban, such as Athelstone?

The Hon. P. HOLLOWAY: I will put that suggestion to the minister responsible.

WATER SUPPLY, ERNABELLA

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the water supply to the Ernabella community.

Leave granted.

The Hon. T.J. STEPHENS: As I have previously indicated to this council, the water supply to the Ernabella community has been disrupted whenever there is an electrical storm. Water pumps have blown up due to electrical surges. Even though Ernabella has requested assistance, it took a number of months before any action was taken. The relevant minister informed the house on 28 November last year that the building of power generation facilities specifically for Ernabella and several other small communities in that immediate region was well under way. I am pleased to note that the Government provided that community with a stand-by motor and spare motor in case of emergencies.

My office has been in regular contact with people in that community, and I am assured that the key issue is still that of generation of power. My question to the minister is: why did the government, after campaigning on fixing the state's electricity problems, cut funding for the Ernabella power station? Can the minister outline how far behind schedule is construction? When can the long-suffering people of Ernabella expect to have their new power plant completed?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Power will always be a problem. It is one of those difficult areas made even more difficult by the isolation of not only Ernabella but also the other AP Lands communities. There has been a lot of infrastructure support for the Ernabella community during its recent problems. I will certainly take up the issue raised by the honourable member. I have not had any recent reports of any disruption to supply. I do know that assessments have been made in the communities within the homes project that is trying to identify some of the problems associated with not only power but also water.

I will take the detail of that question on notice, bring back a reply, and make inquiries as to the extent of the immediate problems. I will give the honourable member an undertaking that further funding will be expended on the power supply and system to make the supply as continuous as possible given the geography and circumstances in which the communities find themselves. I will certainly try to bring it up to the standard you would expect in any other community.

MATTERS OF INTEREST

PAY RATES

The Hon. R.K. SNEATH: I would like to take this opportunity to speak on the widening gap between the rich and the poor, namely, the workers under award rates of pay and those under executive salaries. Recently a number of articles appeared in the newspapers around the country with headlines such as, 'Abbott aims to curb rises to low paid'; 'Abbott warns, "I'll sue strikers"'; and 'Judges win superannuation tax exemptions'. These headlines must surely put a

shiver of fear and anxiety up the spines of all award paid workers.

The blue collar workers of this country must be thinking that they are second-class citizens. It is unbelievable that award-paid workers on salaries as low as $25 000 and $30 000 per annum have been told that they will be sued if they strike for their rights. Under Abbott's proposals, a million of those workers are set to lose an annual safety net pay rise, yet we have not heard a whimper from the federal government about an executive getting paid out $32.75 million.

The Hon. Diana Laidlaw: You just haven't listened.

The Hon. R.K. SNEATH: Mr Costello sang out a few things but did nothing about it. You never do anything about the rich getting richer: you only squeeze the poor. Nor has there been any attempt by the federal Liberal government to introduce legislation to protect shareholders from company profits being squandered on exorbitant salaries, bonuses and redundancies. Even when your mates are dismissed for incompetence, they are still paid enormous amounts of money.

The Hon. Diana Laidlaw: You don't understand company law.

The Hon. R.K. SNEATH: And you don't understand how the workers out there are suffering. You have never understood how the workers out there are suffering, and you certainly would not understand how to live on $25 000 per annum.

The Hon. J.S.L. DAWKINS: On a point of order, I would ask that the honourable member refer his comments through the chair.

The PRESIDENT: That provision is in the standing orders, and I am sure he was actually talking to me but he was looking at you!

The Hon. R.K. SNEATH: Thank you, Mr President: I certainly was addressing my remarks through the chair to the opposition. Mr President, I know that you understand the plight of people on $25 000 per annum, because you have represented them in the past and done so very well. Workers paid under the award provisions for superannuation are required to pay a superannuation contribution tax of 15 per cent. We see judges on salaries in excess of $250 000 to $400 000 a year entitled to annual pensions of $260 000 a year. For them to be given an exemption from superannuation tax is surely consistent with kicking sand in the face of the average workers.

Surely, if anyone needs a tax exemption to fund their retirement it must be the low income earners, not the judges. I just wonder whether this was supported by the federal government to allow a flow-on of this extraordinary exemption to themselves at a later date. It is my view that it should not flow on to anyone until it flows on to low income earners. I call on your colleagues in the federal government to pass legislation to drop the surcharge on all workers earning under $50 000 a year. We will then see whether you really care about those poor people who will not have enough money for retirement. It is a good job that in Australia at the moment there is only one Liberal government that can inflict such agony and misery on the working class.

Of course, when they are in opposition they still try to inflict misery on the working class and those lower paid people. During this federal government's term in office we have seen the gap get wider and wider. It continually raises employment as an excuse to keep wages down. It has always been its tactic to pit workers against workers. It should get off its backside and create some industry, some real jobs and new infrastructure. The current federal government will not say 'sorry' to Aboriginal people; it fails to treat refugees with any compassion; it fails to provide accommodation for the homeless; and it fails to protect workers. It will go down in history as the most heartless government ever.

Time expired.

SOFTBALL CHAMPIONSHIPS

The Hon. J.S.L. DAWKINS: The State Junior Softball Championships were held in Gawler over the weekend of 8 and 9 February, with more than 400 people participating. Conducted at Karbeethan Reserve, Evanston Gardens, under the auspices of the South Australian Softball Association (SASA), this event was hosted by the Gawler and Districts Softball Association. The official opening, performed by the Mayor of Gawler (Mr Tony Piccolo), was preceded by a flag-raising ceremony that featured the national, state and SASA flags. Four levels of competition were contested by association teams from Gawler, Mount Gambier, Port Pirie, the Riverland, the Hills, Central Districts, Broken Hill and Sunraysia, as well as SASA clubs including Sturt, Seacombe, Torrens Valley, Port Adelaide and West Torrens.

The Under-14 Girls Development Grade was conducted in a round robin situation, with Central Districts emerging victorious. This side also took out the award for the most runs scored over all levels. The Under-14 Boys Development competition saw the sides play each other twice. You, Mr President, will no doubt be pleased to learn that the boys from Port Pirie took out the trophy in this grade. Competition in the Under-14 Girls Championship was split into two pools, with the top two sides in each pool going on to the championship round while the remaining sides played off for the Under-14 Girls Plate. Torrens Valley Redsox secured the championship at this level, while the plate went to Seacombe Tigers.

The 11 teams in the under-16 girls competition were split into three pools, with five sides qualifying for the championship round and the next best four competing for the plate. The Port Adelaide Magpies won the championship at this level while the Seacombe club again won the plate competition. As patron of the Gawler and Districts Softball Association I was delighted to speak briefly during the closing ceremony before presenting trophies with the assistance of the member for Light, the Hon. Malcolm Buckby. Congratulations go to Championship Coordinator Kaye Copland and Tournament Director Katrina Ingram (also the G&DSA President) for organising what was a very successful event.

They were supported by an army of volunteers and a large number of sponsors. These people ensured that all aspects of the championships were conducted smoothly, as well as allowing the association to run a popular social event at the Trevor Bellchambers Swimming Centre on the Saturday evening. The role of the many volunteers who guided and assisted the efforts of the competing teams in contributing to the success of the championships cannot be overstated. The level of leadership development evident during the championships was impressive, along with the obvious concentration on team work.

This latter attribute was a feature of a demonstration of T-ball by local children in the six to 10 year age group. As the inaugural Chairman of the Gawler and Districts Softball Association and someone who has been involved throughout its 21 year history, I thought it appropriate that this milestone

be marked by the staging of such a successful championship event. Next year's State Junior Championships will be held in the Riverland.

HOUSING, COOPERATIVE

The Hon. G.E. GAGO: Not everyone in South Australia, unfortunately, is able to have a high enough income to enable them to purchase their own home. In fact, large numbers of South Australians find it difficult to access accommodation in the private rental sector. Accommodation is not just a building, as we know. It is a place where an individual or group can dwell, where they can find shelter, a sense of belonging, comfort and security. Housing that is both affordable and appropriate is vital in maintaining the health and wellbeing of both individuals and communities, and public housing plays an important role in meeting those needs. The type of public housing I would like to bring to members' attention today is housing cooperatives, and one in particular, the Northern Suburbs Housing Cooperative Incorporated.

The Northern Suburbs Housing Cooperative aims to provide more than just a shelter for its tenants. It strives to provide a supportive community for low income people aged 55 and over who are deemed to be in need, one in which activities can be shared and friendships developed. As with other housing cooperatives, the tenants are involved in managing the cooperative, providing an opportunity for each tenant to have input into the way their properties are managed. This is one of the main differences between cooperatives and other forms of private and public housing. In the rental market, whether that be within the public or private sphere, the relationship between the owner of the property and the renter is very much landlord versus tenant.

Members of the housing association can enjoy similar feelings of ownership and control as they would if they owned their own homes. The Northern Suburbs Housing group, which was one of the first housing cooperatives in South Australia, was officially formed in February 1981 on the adoption of their constitution at a public meeting. Soon after that, the cooperative was incorporated. It was not until over a year later that the cooperative was able to finalise a financial agreement with the South Australian Housing Trust and organise finance from two financial institutions. It was then that the first two properties of the cooperative were purchased. The Northern Suburbs Housing Cooperative now has two forms of accommodation, comprising approximately 120 one- or two-bedroom independent units on 35 sites, as well as semi-independent accommodation in the form of Broadview House, which provides accommodation with 10 private rooms.

The funding for the cooperative, as with other cooperatives and associations, includes both Commonwealth funding via the Commonwealth-State Housing Agreement, as well as state government subsidies and the rent of tenants. The Northern Housing Cooperative has a number of eligibility criteria, of which some are set by the government and some are set by the cooperative itself. The eligibility criteria set by the cooperative include those which stipulate that the applicant must be 55 years of age or over, must be able to care for themselves and their unit (of course, help from Dom Care, Meals on Wheels, RDNS , and so on are, obviously, acceptable); and be willing to participate in the cooperative. The government sets the eligibility criteria, which include an asset, income and needs test.

I recently attended a launch of a book, called *From Dream to Reality*, about the history of the Northern Suburbs Housing Cooperative. It was written by David Kilner, one of the founders of the cooperative some 20-odd years ago, and it is certainly a worthwhile read.

I wish to commend the housing association and all its members, past and present, who have put in time and energy which has given rise to the extremely valuable association that stands there today. What has been created is not just about accommodation for seniors in need; in fact, it is a very lively and supportive community as well. They are to be commended.

PORT LINCOLN HEALTH SERVICE

The Hon. SANDRA KANCK: On Monday, I asked questions about the effective sacking of Mr Ken Goodall from his position of CEO of the Port Lincoln Health Service. As I mentioned in that question, Port Lincoln has been the subject of five administrative inquiries since 1997 and has had a complete turnover of the board and three board chairpersons since 1997, with the fourth CEO since 2000 now needing to be appointed. There are many more questions needing to be asked and answered about this matter, but there has clearly been a level of dysfunctionality present for quite a number of years, and Mr Goodall's compulsory sideways movement is the tip of a dysfunctionality iceberg.

With the resignation (in anger, I suspect) of Dr Sue Baillie as the Medical Director of the Port Lincoln Health Service just two days after Mr Goodall's dispatch, we should be concerned that, after 2½ months, this position has not been filled. So, who is providing the information to the board that it needs to make these decisions? It surely is not appropriate for nursing staff or inexperienced medical staff to be doing this.

Mr Goodall was on a salary package, including superannuation, of approximately $97 000 per annum. He has been transferred to the Eyre Regional Health Service, where he is under the direction of the acting RGM. Whether or not that is suitable is questionable, as the acting RGM had himself previously applied unsuccessfully to be the CEO of Port Lincoln Health Service.

With that transfer, the financial responsibility for Mr Goodall's salary has also been transferred to the Eyre Regional Health Service. It does not matter whether Mr Goodall is paid by the Port Lincoln Health Service or the Eyre Regional Health Service; the taxpayer is footing the bill for someone to look busy. Even worse for the taxpayer, this contract is in place until the end of January 2006. If the contract is terminated and some agreement is worked out about a compensation package, the taxpayer will still bear the brunt, and not a single health outcome will have been achieved.

Surely our health minister cannot be satisfied with that. I hope that the minister has assured herself that the work Mr Goodall is doing is worthy of a $97 000 per annum salary package for the next three years. The minister needs also to look at the number of redeployed staff on the books of either the Port Lincoln or Eyre Regional health services. She will find that the figure is much higher than for any other region. She needs to ask herself why and find out the answers, and again she needs to address the question of why this financial outlay for no health outcome, and she needs to find out who the common denominator is in these circumstances.

Yesterday, I received documents I had requested under FOI relating to the decision to sack Mr Goodall. While I am still reading and digesting the contents and cross-referencing with the other information I have, it is clear that some of the questions I asked on Monday have been answered. I refer again to the quote from Ms Roxanne Ramsey, Executive Director, Social Justice and Country Division of DHS, published in the *Advertiser* of 10 January, in which she stated:

> The department has not intervened in the staffing issues at Port Lincoln.

Clearly, the FOI documents show a flurry of activity involving Ms Ramsey immediately prior to her being in Port Lincoln on the date that the board meeting effectively dismissed Mr Goodall. There is a quite extraordinary letter from the chairman to Ms Ramsey dated 3 December and faxed to Ms Ramsey, presumably before she travelled across to Port Lincoln that day, in which he refers to the impending meeting of the board. It is very clear that the board was anticipating the presence of Ms Ramsey and Ms Poole from DHS. One of the questions asked of her in that letter was:

> If the CEO is to be asked to step aside, what documented or conclusive evidence is available to justify his dismissal?

So, the decision had all but been made to dismiss Mr Goodall, and the board did not have the evidence to support the decision. These were the people on the ground who knew what was happening in the health service, yet they were waiting on senior departmental officers to tell them why they should sack their CEO; yet, Ms Ramsey had the gall to say that the department had not intervened.

The Minister for Health needs to get out on the ground and talk to people such as Ken Goodall and Sue Baillie and not rely on her bureaucrats' interpretation of what has happened. She also needs to look at the other problem spots in DHS, such as the Mount Gambier Health Service and Julia Farr Services and see whether she can find a common denominator. There is something rotten in the Department of Human Services, and we must root it out.

DUKES HIGHWAY

The Hon. D.W. RIDGWAY: I rise today to bring to the council's attention the continuing saga of the Dukes Highway, east of Bordertown and, in particular, a newspaper article in the *Border Chronicle* dated 16 January 2003. The headline read: 'Highway condition blamed for double fatality'. It stated:

> Warnings that the section of the highway between Bordertown and the Victorian border would claim lives materialised when two Afghan teenagers were killed on Christmas Eve. 'The road was the cause of these blow-outs and that two lives have been lost', Tatiara group chairman, Peter Cook, said. He maintains that the rough surface was responsible for the blow-out that caused the driver of the car in which the boys were passengers to lose control and crash into a tree.

This issue has been a concern of mine for some time; I raised it in my maiden speech last year. The road's condition is a disgrace. This road is regarded as a gateway to South Australia, and many tourists travel along this road coming to South Australia. I read with interest a letter to the editor in the *Advertiser* of 15 November last year by a Mr Ray Dickson of Brighton, as follows:

> Our front doormat needs replacing. Having just returned to South Australia by road along the Western and Dukes highways, it is very obvious when one reaches South Australia. This section of the Dukes Highway from the Victorian border to Bordertown is in the worst condition I have seen it for more than 40 years. It is right now when we are trying to encourage interstate motorists to sample what are wonderful state has to offer, and it is not really a very welcoming sight.

Last October, ARRB Transport Ltd was commissioned by Transport SA to study the problem. Its report suggests that it will cost $8 million to fix, with immediate repairs to cost some $600 000. I was delighted to see the temporary repairs undertaken on the road just prior to Christmas. While this was some improvement, it is still in very poor condition. The Tatiara Road Safety Group chairman, Peter Cook, now believes the cost of reconstruction will run to something more like $17 million.

I noted a media release by the Minister for Transport (Hon. Michael Wright) on 16 October last year, when he announced that the government will fund sustained road safety improvements from speeding fines. All speeding fine revenue will be directed into the community road safety fund, which was established to address all areas impacting on road safety. Coincidentally, since that time there has been an explosion in the number of police patrols along the entire length of the Dukes Highway from Tailem Bend to the Victorian border. In fact, on one trip shortly after Christmas I counted no less than seven motorcycle police patrols. It is now not uncommon to see several police highway patrol cars and at least two or three motorcycle patrols on every trip to Adelaide. I hope all the revenue collected on this highway is spent on road safety initiatives for that highway. The new road safety fund now must be growing at an enormous rate. Incidentally, as a result of road safety initiatives introduced in Victoria by the Bracks government, speeding fine revenue is projected to rise in Victoria this financial year by some 85 per cent to in excess of $337 million.

Last year I convened a meeting with a constituent and the minister (Hon. Michael Wright) on another transport related matter, at which the member for MacKillop, Mitch Williams, was also present. During the meeting, I expressed my concern at the condition of the Dukes Highway. The minister's response was that he wanted to talk to us—both Mitch and me—about the Dukes Highway but that he would see us after the meeting as he 'did not want to make fools of us in front of our friends'. Some would say that, as a politician, I would not have very many friends.

While I acknowledge the Dukes Highway is a national highway and, therefore, a funding responsibility for the federal government, it is the minister's responsibility to champion South Australia's cause and fast-track any funding applications. However, at this stage I am aware of only some internal work being done by Transport SA and, to my knowledge, no funding proposal or application has been forwarded to the federal government. When the El Nino weather pattern breaks down and, hopefully, we go into a prolonged wet weather period, during these wet weather conditions the expectation is that the road surface will break up even further and reconstruction of the road will be almost impossible during this time.

In an article in the *Border Chronicle* of 24 October last year, Mr John Jenkin of Tatiara Truck and Trailer is quoted as saying:

> Transport SA is lucky we have had a dry winter because the road would be like the Sahara Desert now.

With it now being almost March, we are facing the very real prospect of no work being done until at least the end of the year. We may well have to keep our collective fingers crossed that the highway holds together during this wet winter or

suffer significant speed restrictions or lengthy detours along its length. I challenge the minister to make a fool of me and deliver a positive and permanent road quality outcome for South Australia.

Time expired.

PLANET SHAKERS

The Hon. A.L. EVANS: I wish to speak on the Planet Shakers Youth Conference. Planet Shakers is an international Christian youth conference held in Adelaide every January. The conference commenced eight years ago. Its founder, while working with young people who ran high school chaplaincy programs and youth seminars it was found that there was a need for young people, especially teenagers, to be in places where they could hear positive talk about their future. The overall vision of the conference is to inspire teenagers and young adults with the message that they are valued and that they can play an important part in influencing their community if they are willing to become involved in doing active and positive radical acts of love and compassion. The conference is renowned for its contemporary praise and worship and inspiring speakers.

Planet Shakers began with 300 full-time delegates attending the event at the Paradise Community Church. Incredibly, the conference multiplied every year, eventually forcing the convenors in 2002 to consider a larger venue because Paradise Community Church, with its seating capacity of 4 000 people, was unable to seat all the delegates. The 2003 conference held last month exceeded all previous conferences. For the first time the conference was held over three weeks, with a final week being convened in Brisbane. In Brisbane alone it attracted 3 000 delegates. Overall, the 2003 Planet Shakers conference attracted well over 10 000 people.

With no alternatives these young teenagers and young adults could have found themselves caught up in a lifestyle of drugs and alcohol abuse. In hearing of the numbers at the conference, it should not be overlooked that many of the conference delegates are teenagers who travel long distances in hired coaches. This year 2 000 teenagers came from Victoria and about 750 attended from Perth. The accommodation for the conference is very basic with many delegates realising when they book that nights are slept in sleeping bags in a community centre or gym. It appears the lack of personal comfort far outweighs the returns that the young people believe they receive through attending the conference.

The feedback from the conference continues to impress. Countless stories are received every year from delegates who attend the conference. These teenagers and young adults take the message of hope to their local communities and, as a result, youth programs have doubled around Australia and lives have been transformed. One teenager who attended the 2003 conference wrote to the conference convenor, as follows:

> Thank you for such an awe inspiring four days. As a first timer, I was excited and full of energy. What I experienced, however, exceeded far beyond my expectations.

Even Australian golf sensation, Aaron Baddeley, said that he would love to attend, according to his official website, where he said:

> I've heard of Planet Shakers and I had some friends go to the last one in South Australia. It sounds like it goes off and is an awesome time. I'd love to be able to get to one in the future.

As a result of the continued success and growth of the conference, and the desire to spread this message of hope around the nation and the nations of the world, many doors have opened to Planet Shakers. As mentioned, the conference has gained notoriety for its music. The conference event has recorded and released a CD each year. This year's album is currently the No.1 praise and worship album in the Christian music industry, and the Planet Shakers album continues to impress overseas audiences.

Plans are well under way for the first international Planet Shakers conference to be held in Amsterdam, hopefully in 2004. The driving motivation of Planet Shakers continues to be a commitment and passion to see teenagers and young people fulfil their dreams, desires and hopes. In a world that seems to offer them hopelessness, I wish Planet Shakers every success in the future.

SOUTH AUSTRALIAN FILM CORPORATION

The Hon. DIANA LAIDLAW: This Friday evening the South Australian Film Corporation will celebrate the 30th anniversary of its operation in this state. Efforts to mark this important occasion have been somewhat controversial. The corporation actually came into existence on 26 October 1972, but last year the corporation had no surplus funds to mark this 30-year milestone. What is not in dispute, however, is the stunning record of success of the SAFC since the former premier and minister for the arts, Don Dunstan, launched the enterprise with Jack Lee, Gil Brealey and then John Morris at the helm.

Over the past 30-plus years the SAFC has either produced or invested in 48 features, six mini series, eight series and hundreds of documentaries—a mighty achievement! Overall, the SAFC productions have won 485 award nominations, 83 AFI awards, a total of 160 Australian awards and 147 overseas awards, including Golden Globe, Emmy and Oscar. The SAFC 1970's production *Sunday Too Far Away* starring Jack Thompson is today universally recognised as heralding the renaissance of the Australian film industry. It showed the rest of the world what we are capable of producing. It also represented a bold beginning in our continuing efforts to tell our own stories.

Over the years the SAFC has excelled on so many fronts, including:

- celebrating South Australian writers, such as Colin Thiele and his book *Stormboy*.
- celebrating South Australian locations, such as Burra in *Breaker Morant* and Arkaroola in *Tracker*.
- providing the initial opportunities for our young film makers to test their vision and creativity, such as Scott Hicks with *Freedom* and then *Sebastian and the Sparrow*.
- attracting film makers such as Rolf de Heer to relocate to South Australia; encouraging our film makers such as Craig Monahan to return to the state; and enabling others such as Mario Andreacchio, Craig Laiff, Helen Leake—and so many more—to build their careers from a base in Adelaide.
- ensuring that Australian artists such as David Gulpilil, Bryan Brown and Jacqueline McKenzie have a platform from which to shine.

As with all arts organisations Australia wide, from time to time the SAFC has experienced its highs and lows. In December 1993 as Minister for the Arts I inherited responsibility for the SAFC at a low period in its life. In order to ensure its survival, the SAFC was restructured from a

production company to a film development and investment corporation. This decision by the Liberal government, together with the inspired direction of successive CEOs—Judith McCann and Judith Crombie—and the massive effort of successive chairs—David Tonkin, Teri Whiting and now David Minear—plus all board members and staff generally, has enabled the SAFC to grow as a force and focus for film making in Australia.

The Liberal goal was to establish the SAFC as a centre for independent film making in Australia and for the promotion of Australian film culture generally, and it is good to see that this government has adopted the same vision. To aid the SAFC in realising this charter, various investments were made during the eight years I was minister, as follows:

1. A somewhat unusual loan arrangement to capture production of Scott Hicks's film *Shine* from New South Wales to Adelaide, with repayments then reinvested in the purchase of a new Harrison sound mix unit at Hendon;

2. The establishment of a $3 million revolving production fund;

3. Increased funding of $1.2 million each year from $650 000 for production investment, script development and training programs;

4. An additional $750 000 for each of three years from 2001-02 to advance the government's new audiovisual strategies, and I certainly welcome the subsequent accords that have been negotiated by the SAFC with both the ABC and SBS;

5. Investment and other support to Channel 9's production of *McLeod's Daughters*, thereby realising a dream long cherished in this state to attract a long-running prime time television drama, and thereby generating continuous employment for our highly skilled crews and additional work for our artists;

6. Last, but far from least, a further investment of $1.5 million in four feature films commissioned by the 2002 Adelaide Festival of Arts, ensuring for the first time that film was included as an art form in the festival.

I wish the SAFC well for its celebrations of the past 30 years and all the best for the future.

GAMING MACHINES (EXTENSION OF FREEZE) AMENDMENT BILL

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

The Hon. NICK XENOPHON: I move:

That this bill be now read a second time.

The issue of poker machines has been brought up in this chamber on many occasions in the past few years.

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

The Hon. NICK XENOPHON: The Leader of the Opposition says 'Hear, hear!' We all have different views, and members know my position, namely, that the state would be much better off without any poker machines whatsoever. What was achieved politically some time ago in relation to the history of this matter? In December 2000 a bill was passed to allow for a poker machine freeze for a period of six months. That was subsequently extended after much debate in May 2001 and I acknowledge the contribution of a number of members, including the Hon. Angus Redford, who may not agree with me on many aspects of the issue of poker machines and their role in our community but was willing to have a freeze to consider broader policy issues.

In the meantime, the Independent Gambling Authority was established by an act of this parliament and the freeze, which is due to expire on 31 May 2003, is currently subject to an inquiry by the Independent Gambling Authority. That authority, according to media reports, has contacted the relevant minister, the Hon. Jay Weatherill, and I understand that the IGA has requested more time to consider its position before reporting on the issue of a poker machine freeze.

The point has been made by a number of members in this chamber, including the Leader of the Opposition, that just because the Independent Gambling Authority comes up with a finding it does not mean that we are bound by it and I agree with that, but whatever the views of the Independent Gambling Authority, notwithstanding its legislative fetters in relation to the fact that it must consider the commercial viability of the industry, a clause with which I took issue when it was passed by this parliament, it is important that all members consider that report as part of a debate on this issue as to what is the long-term future of the freeze.

My position is unapologetic. I want to see a reduction in the number of and the elimination of machines, but I also understand that the numbers are not here in this chamber nor the other chamber to do that, but at the very least we should have a full and informed debate on the issue of a freeze. We cannot do that unless the Independent Gambling Authority—a statutory authority established for the purpose of making findings, researching and reporting on the impact of gambling in this state and on poker machines—has reported. We need that report before we can determine the issue further. Because the Independent Gambling Authority has indicated that it needs more time, we should give the freeze more time and extend it by a period of 12 months. In a nutshell, that is what the bill proposes to do.

I remind members about the impact of poker machines in this state. The Productivity Commission makes very clear that some 42.3 per cent of losses to poker machines are incurred by problem gamblers. It is a staggering figure when you compare it to 5.7 per cent for lotteries. The Productivity Commission indicates that there are something like 20 000 plus individuals in this state with a gambling problem resulting from poker machines—a figure verified by research carried out by the Centre for Economic Studies on behalf of the Provincial Cities Association. This bill would give us some breathing space in terms of some long-term policy considerations in dealing with this issue.

Obviously a freeze is not the be-all and end-all but rather a first step. Other bills I have introduced in this chamber relating to the rate of loss on machines must be considered in the near future and these matters would make an impact on the level of problem gambling in this state.

Given that the freeze is due to expire on 31 May, I urge honourable members to deal with this bill expeditiously, given the Independent Gambling Authority's view that it needs more time. That way we can have a full policy debate. Even the Australian Hotels Association agrees, according to media reports, that there ought to be more time to consider these issues. I urge members to consider this matter expeditiously. Let us get on with it and at least pass this bill. People can still reserve their positions on whether they are for or against poker machines, but as soon as we can deal with it we can at least have a period of certainty in developing some

further strategies to effectively deal with the issue of problem gambling. To date, both this government and the previous government do not have a shining record in effectively reducing the impact of poker machines in this state. I believe that it has been a dismal failure, and I think that this process will at least attempt to rectify that.

The Hon. J. GAZZOLA secured the adjournment of the debate.

VICTORIA SQUARE (CONTINUATION OF EAST-WEST TRAFFIC ARRANGEMENTS) BILL

The Hon. NICK XENOPHON obtained leave and introduced a bill for an act to provide for the continuation of the use of Victoria Square, Adelaide, for the direct east-west movement of traffic. Read a first time.

The Hon. NICK XENOPHON: I move:

That this bill be now read a second time.

The issue of the closure of Victoria Square is a contentious one, and has caused enormous angst and uncertainty for the hundreds of businesses in the Central Market and Grote Street precinct. In the next few minutes I propose to outline a brief history in relation to this matter and to urge all honourable members from both sides of the council to at least consider this issue, not to rush to judgment, to listen to all the arguments both for and against but also, in particular, to listen to the views of the traders in the Central Market, an icon for this state. At the outset, by way of disclosure, I should say that I am a ratepayer in the City of Adelaide by virtue of owning a property there (which, I hasten to add, is heavily mortgaged). I also at the outset wish to thank councillors Michael Harbison and Richard Hayward for their public support of the principle behind this bill, which I believe reflects the concern of the overwhelming majority of traders in the Grote Street and Central Market precinct.

In relation to the history of this bill, the Adelaide City Council a number of months ago unveiled plans for the redevelopment of Victoria Square. A report in the *Advertiser* of 17 October 2002 indicated that the council unveiled a new roundabout plan for public comment and indicated that it would be the subject of public consultation. Even at that time, the Grote Street Business Association Vice President, Dean Bendall, maintained that blocking traffic through the square and reducing traffic lanes in Grote Street would impact on local businesses, and expressed his concern.

It was a subject of much comment subsequently in a piece by Geoff Roach, a columnist, in the *Advertiser* of 2 November, and I think that his views reflected those of many in the community. He expressed concern, and he was quite scathing of the plan. He referred to the latest attempt to convert Victoria Square into what many would consider to be 'an abiding monument to waste and stupidity'. I think that indicates the view of many, that spending millions of dollars (and, I think, on some estimates, in excess of $20 million) to redevelop the square would not make sense. But I hasten to add that the issue of what the city council does with ratepayers' money is an issue for the council to determine: there are elections coming up. But the issue of closing off the Grote Street-Wakefield Street interconnector is something that goes beyond the City of Adelaide's jurisdiction, in a sense. It is something that can impact on the whole community—it impacts on the western suburbs, it impacts on traffic throughout metropolitan Adelaide. The reports in the *Advertiser* indicate that the council has been deeply split on this issue, and councillors—

The Hon. R.I. Lucas: On most issues.

The Hon. NICK XENOPHON: 'On most issues' the Leader of the Opposition said. Councillors Harbison, Hayward and Anne Moran have also expressed their concern about this proposed closure. In relation to the level of traffic that is flowing through the square, a report prepared for the council gives an indication of existing average weekday traffic on Grote Street between Victoria Square and Morphett Street—up to 31 500 vehicles—and the predicted average weekday traffic in terms of the closure of about 16 500, a reduction of some 45 per cent. That was confirmed in one of the reports prepared on behalf of the City of Adelaide. There are reports, in terms of traffic volume, that there could be about a 45 to 50 per cent reduction between Morphett and Frome streets; that they will experience less through traffic. That is something that has been documented in a number of the reports that have been provided.

In relation to the history of this matter, it has been the subject of extensive lobbying by a number of prominent Grote Street traders, who have expressed their very serious concerns in relation to this issue. Michael Angelakis AM has expressed his concern and has corresponded with the government in relation to this matter, as I understand it. He has indicated to me that, on other occasions when traffic was impeded because of events such as the Tour Down Under, there was a significant reduction in business. He undertook a survey of a number of businesses (and I will not name those businesses). With Classic Adelaide, one business reported a reduction of some 50 per cent in business; with the Adelaide Fringe, about 35 per cent; with the Tour Down Under, some 30 per cent.

There is a whole range of other businesses that had similar figures of a substantial loss of trade during that period. I think that traders accept that, because they are special events; they are only temporary events for a relatively short period of time. But, clearly, the traders in the Central Market know that, if you reduce the flow of traffic, you impact on their businesses. With so many small businesses being on a knife edge nowadays, this is something that many businesses in the Central Market precinct feel they would be grossly prejudiced by; that it could be the death knell for a number of those businesses.

These are views that have been shared by George Chin, who has been an active participant in the Central Market area (he runs the Wendy's franchise). Mr Chin is also a traffic consultant, a traffic engineer, and has that expertise. He has been on the public record expressing his concerns. Earlier today I spoke to Mr Chin, and he said that we need more time; that this does not make sense in terms of this proposal. He has expressed some quite serious reservations. Dean Bendall (to whom I have referred) is particularly concerned that the Grote Street traders, particularly for bulky goods, will be adversely impacted on; that they will lose their trade to suburbs where parking is easier, where there will not be the same traffic restrictions and problems. Deb Lavis, who is the President of the Grote Street Business Association that represents 100 businesses (and that does not include the businesses in the Central Market) has expressed very real concerns in relation to the impact of such a closure, which the council is still seriously considering.

It should be noted that Mr Angelakis, in the course of a couple of weeks, with the support of other traders, managed to collect some 18 000 signatures with very little effort;

without pushing the issue too hard. There was a spontaneous level of considerable concern amongst the patrons of the Central Market who come not just from the City of Adelaide but from throughout the metropolitan area. Those 18 000 signatures cannot be ignored.

The studies that I have looked at indicate that, by having a roundabout, there will be a delay of between 45 seconds to three minutes in terms of traffic getting from Wakefield Street to Grote Street, and vice versa. That ought to be of concern in terms of emergency services who have raised their concerns. I was provided with a video from the South Australian Metropolitan Fire Service which indicates how much damage can be done in a very short time. For any honourable member who wishes to view that, I would be more than happy to provide it to them, because it is quite frightening. The video shows that, in just 70 seconds, a cigarette left in a lounge chair can cause a build-up of smoke and toxic gases, which thicken into a hot, dense cloud and act like a space heater, radiating downwards, with the ceiling temperature reaching 300 degrees Celsius. Then other materials and fabrics ignite, and the floor temperature becomes 100 degrees Celsius, and within two minutes the entire room can be totally consumed.

The fact of the matter is that the Metropolitan Fire Service's headquarters is in Wakefield Street. If it wants to get to the other side of town, the western suburbs, it will be delayed. The delay will be of at least 45 seconds, and could be up to three minutes, and that delay could well be fatal. I do not believe the Adelaide City Council has thought this through. This issue impacts on not only the City of Adelaide but the whole metropolitan area. My concern is that, if this ill-conceived, planned closure goes ahead, it could well cost lives. I also note that the SA Ambulance Service has a station in Wakefield Street, again serving people in the western suburbs.

In relation to other matters with respect to this proposed closure, I believe that this bill is important to provide certainty to traders. A number of traders to whom I have spoken say their future is uncertain. They cannot make long-term or even medium-term investment decisions to improve or sell their businesses, given the potential closure, and given the impact it will have on traffic and consumers. This level of uncertainty is something that is intolerable for those traders. The Central Market will be a shadow of what it is currently if this closure goes through.

The Central Market is a very important icon in this state. We ought to consider the future of the Central Market in the context of this bill. This bill aims to remove that uncertainty once and far all. I believe that, unless we pass this bill, if there is continuing uncertainty in the Adelaide City Council, it will do irreparable damage to the Central Market traders and to businesses in the Grote Street precinct.

The bill itself is quite straight forward. It basically ensures that the traffic must be kept open for that east-west interconnector. It is not inconsistent with the plan of the Lord Mayor, Alfred Huang, to have a tunnel which would allow the traffic to flow through. It does not contradict that at all, but the issue of how much that will cost is one for the Adelaide City Council and its voters at the next election.

The Hon. T.G. Cameron: And its ratepayers.

The Hon. NICK XENOPHON: And its ratepayers.

The Hon. T.G. Cameron: And we are both ratepayers.

The Hon. NICK XENOPHON: The Hon. Terry Cameron indicates that he is a ratepayer as well as a voter, and I indicated that at the outset.

The Hon. T.G. Cameron: Not as big a voter as you!

The Hon. NICK XENOPHON: No, I can tell the Hon. Terry Cameron that I have only one vote.

The Hon. R.I. Lucas: Does he pay more rates than you, Terry?

The Hon. T.G. Cameron: Unfortunately, yes.

The PRESIDENT: Order! The Hon. Mr Xenophon has the call. We do not need any cross-chamber conversations.

The Hon. NICK XENOPHON: I have already declared how heavily mortgaged my position is there. I urge all members to consider this issue carefully and look at the impact. I urge the Minister for Transport to have his department undertake its own studies in relation to the impact that such a closure would have on traffic flow. I understand that the RAA may well be looking at this issue because it is also an area of concern for its members.

I ask honourable members to seriously consider this for the future of the Central Market. It is an issue not about local government autonomy, because the closure of this road will impact not just on the City of Adelaide but on the broader metropolitan area. For that reason, I urge honourable members to support this bill.

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

LOCAL GOVERNMENT (LOCHIEL PARK) AMENDMENT BILL

The Hon. NICK XENOPHON obtained leave and introduced a bill for an act to amend the Local Government Act 1999. Read a first time.

The Hon. NICK XENOPHON: I move:

That this bill be now read a second time.

This bill seeks to amend the Local Government Act and, in essence, seeks to preserve Lochiel Park in its current form, to prevent its development, to prevent housing being put on it, and to ensure it is preserved for community use. I should acknowledge that it is an issue that I have campaigned on with my parliamentary colleagues, the Hon. Andrew Evans and the Hon. Sandra Kanck, and I thank her for seconding this bill.

I should outline briefly the history of Lochiel Park for the benefit of members. Situated in Campbelltown, Lochiel Park is approximately 11 kilometres north-east of the City of Adelaide, and comprises 15 hectares of open space adjacent to the Torrens River and linear park. When we hear those in this place and the other place talking about the importance of maintaining the parklands as the lungs of the city, then that applies equally, I believe, to the open space around the Torrens River, and this is one of the last remaining pieces of open space in that area of such significance. The site has been state heritage listed and, apart from Family and Youth Services facilities, previous TAFE and MFS buildings have now been demolished.

It is an area that has been declared one of major significance for the Kaurna people. I will read into the record a statement by Lynette Crocker, the coach of the Kaurna Native Title Management Committee, to the National Trust of South Australia, made on 18 June 2002. She said:

The Lochiel site is one of major significance as it has the remains of Aboriginal signatures of the scarred trees that once was a large winter camping ground for Kaurna people who passed through by way of the river to Irrabilla in the hills, and Tandanya in the city and Tandanyanga.

That is a matter that ought to be placed on the record. I understand that this is something that has been brought to the attention of the Minister for Aboriginal Affairs and Reconciliation, and it is currently the subject of inquiry and determination.

It would be remiss of me if I did not mention and praise the efforts of June Jenkins and Margaret Sewell of Campbelltown SPACE, an acronym for Supporters Protecting Areas of Community Environment. They have been true champions of the community in fighting to preserve Lochiel Park. They have campaigned tirelessly for this. They have spent an enormous amount of their time and energy and, together with their many supporters, they have worked hard to preserve Lochiel Park.

My argument is that Lochiel Park ought to be preserved on its own merits, on the basis that it is a significant piece of open space. It is an area that has been the subject of considerable community debate and support. On 4 February, on the eve of the election, I chaired a public meeting in the area that was attended by some 350 people. A number of speakers attended that meeting, including Mr Joe Scalzi, the member for Hartley, and Mr Quentin Black, the then Labor candidate for Hartley. The position of the Labor Party was set out very clearly by Mr Black.

Rather than refer to what Mr Black said at that meeting, I should refer to a statement made on 8 February 2002. It was a letter from the Hon. Mike Rann, then Leader of the Opposition, to June Jenkins in relation to this very issue, given the enormous attendance and the feedback on the issue of Lochiel Park. In fairness to the Hon. Mike Rann, I should read the letter in full so that there is no danger of there being—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order, there is too much audible conversation. The Hon. Mr Cameron is the main offender. Maintain the dignity of the council.

The Hon. NICK XENOPHON: The letter states:

Dear Ms Jenkins,

Thank you for the copy of the resolution passed at the public meeting which took place on the 4th of February 2002. The resolution made clear the community's wish to maintain 100 per cent of Lochiel Park as open space and reinforces Labor's strategy to save land at Lochiel Park for community use. The Liberals have made their position clear: if they are returned to government the Lochiel Park site will be developed for private housing, with some house blocks as small as 210 square metres. If the Liberals are re-elected to government and Hartley remains a Liberal seat, they will claim they have a mandate to do so. Quentin Black has negotiated with myself and Kevin Foley that, if a Labor government is elected this Saturday:

- we will place a one-year moratorium over the Land Management Corporation's plan to develop Lochiel Park immediately halting housing development;
- in that time, Mr Black will chair a thorough community consultation process with local residents, community groups, council and key stakeholders to decide how the space can be best preserved and used for the benefit of everyone in the community.
- we intend to save 100 per cent of Lochiel Park for community facilities and open space, not a private housing development as the Liberals have proposed.
- Mr Black will work with local open space, community and sporting groups to plan how 100 per cent of Lochiel Park can be revitalised, so that the whole community can benefit.

I have also committed a Labor government to a comprehensive plan to promote open space throughout Adelaide and protect our parklands. Yours sincerely, Mike Rann, State Labor Leader.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! I ask members to reserve their comments for their own contributions. The Hon. Mr Xenophon has the floor, and I would like him to be heard in silence so that *Hansard* can record his contribution.

The Hon. NICK XENOPHON: The final dot point states:

In terms of the subsequent history of this, the member for Hartley (Mr Scalzi) was re-elected, and all credit to Mr Scalzi, but a Labor government was elected. It is my view that this was a very clear promise. It was not conditional upon Mr Black being elected to the seat of Hartley, and I commend the Hon. Mr Rann for the sentiments contained in that letter. However, since that time questions have been asked in the parliament in relation to Lochiel Park, and I give credit to the government that its commitment to have a consultation process has been honoured. That process is continuing. It did not start immediately and I think it still has a number of weeks to run. However, my concern following discussions with SPACE and with the community is that the previous unequivocal undertaking to save Lochiel Park has not been forthcoming to the extent that local community groups, in particular SPACE, would have wished.

Questions have been asked, both by the member for Hartley in the other place and by the Hon. Andrew Evans, and whilst clearly there is a community consultation process in place, there does not appear to be a clear determination to say that, whatever the result of that consultation process, ultimately it will be used for community use and open space. I think it is important, on behalf of those community groups and on behalf of the broader community around Campbelltown and, indeed, in the metropolitan area who are concerned about open space, that there be some certainty in relation to Lochiel Park, that it is an important place.

I acknowledge that the government is still considering the issue of Lochiel Park being declared an Aboriginal heritage site, but my view is that, even if that process does not lead to Lochiel Park being declared as an Aboriginal heritage site, there is a clear commitment by this government to save Lochiel Park and this bill simply seeks to crystallise that commitment to ensure that Lochiel Park remains in community hands. Notwithstanding that the opposition did not support the retention of Lochiel Park (I think after negotiations by the member for Hartley some 20 per cent would have been retained as open space), given the commitment made by the honourable the Premier as opposition leader; given the community concern; given the importance of maintaining green space, particularly in this very important site, I urge that it be favourably considered by both sides of this chamber.

The Hon. J. GAZZOLA secured the adjournment of the debate.

AGRICULTURE, FOOD AND FISHERIES MINISTER

The Hon. CAROLINE SCHAEFER: I move:

That the Hon. Paul Holloway, MLC, Minister for Agriculture, Food and Fisheries, be censured for his ineptitude in handling the prohibition on professional fishing in the River Murray.

This is yet another sorry chapter in a sorry saga. I was delighted last week at the decision of Justice Williams that exonerated the actions of the Riverland fishers and their claims over a long period of time to property rights and to proper compensation for loss of income. I think the words of Shane Warrick, who heads up the Riverland fishers, as I saw

him on the television news that night, sum up the actions of those people and of Justice Williams and, indeed, the ineptitude of the minister. Shane Warrick said:

> We always knew this decision was morally and ethically wrong. We now know it was also legally wrong.

And how courageous are those people? Some of them have had to sell their homes in order to take this court case to its end. I am driven to move this motion against the minister because he still has not learned. He said today on radio that the government will almost certainly appeal Justice Williams's decision and, in doing so, he condemns those 28 river families to yet another round of legal wrangles, yet another round of borrowing money, yet further time with no compensation and with no discernible income.

It is to me a mark of a leader if they can admit that they were wrong, admit they were at fault and start again, but no: this minister continues headlong into chaos, parroting the same answers that he has given since June last year. How can he continue to break these people financially, physically and mentally? As I have said, a number of them have had to sell their homes in order to live in the ensuing time. I am not sure whether 'inept' describes this minister, or whether he is weak; whether he lacks leadership; whether he is arrogant; whether he is cruel; or whether he is just the weakest link in the chain that is the cabinet at the moment.

An honourable member interjecting:

The Hon. CAROLINE SCHAEFER: Thank God for that! I would hate to be like him. I should have censured him last year, but I did not because I was uncomfortable about doing so. At that stage, I thought that the minister may have been misinformed, or he may not have understood, and I gave him the benefit of the doubt, that he was being bullied by his cabinet into a decision that he was uncomfortable with.

However, he has continued down this path to such an extent that there is no option now but to move to censure him. Last year, I said that he had failed to consult; and that has certainly been confirmed by Justice Williams' report. I said that he had failed to give the people proper notice of their loss of income; that has also been affirmed. I said that he had failed to give proper compensation (that has certainly been confirmed) and that he failed to recognise a property right.

He had taken his decision purely for political reasons and, in doing so, it has been confirmed in this report that he did so not just for political reasons. In doing so, he disregarded the time-honoured methods of government. Justice Williams said:

> It is unusual for the situation to arise because, as a matter of convention, it may be expected that a government will honour the contractual commitments of its predecessor, notwithstanding a change in policy. Public confidence in government dealings would be eroded if the government were able to renege upon its commercial undertakings with the private business sector.

Indeed, that is exactly what has happened. These people have been reneged on. An understanding that they had with then minister Kerin in 1997 for a restructure of their property and their property rights was overturned and ignored by Minister Holloway and his government. Justice Williams continues—

The Hon. T.G. Cameron: By the government and then Minister Holloway.

The Hon. CAROLINE SCHAEFER: Yes, I stand corrected—by the government and, at its order, by Minister Holloway. Justice Williams continues:

> I consider that the earlier regulations as enforced in 1997 were intended to provide indefinitely for the future and that the licences granted in the reconstituted fishery by the regulations themselves were intended to continue to have the support of the scheme, which was introduced as a package in 1997. I consider that it is a fair balance to conclude that, if power is now to be exercised on the authority of the Fisheries Act in conjunction with section 39 of the Acts Interpretation Act to take away accrued property rights, that power should be subject to a restriction providing for proper compensation. I conclude that the attempted exercise of power in this case is invalid, because appropriate compensation has not been provided.

Of course, it has been well and truly proven that there is a property right, as Justice Williams has confirmed, and that no adequate compensation was offered. In fact, even as late as this week—

The Hon. P. Holloway: The same as you offered.

The Hon. CAROLINE SCHAEFER: No, I didn't have the opportunity to offer anything. But this minister continues to talk about an ex gratia payment. As late as Monday of this week, he talked about the income lost by fishers. He has continually failed to recognise a property right, which is referred to on many occasions in this summary.

Members interjecting:

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

The Hon. CAROLINE SCHAEFER: The minister talks about 'twice what Kero offered', as he puts it. In 1997 a voluntary buy-back was brokered by the fishers themselves to reconstruct the industry on the assumption that they would have some permanency of tenure, a permanency which was overturned by this minister, because he put a tick on a compact while he rushed headlong to grab power.

Members interjecting:

The Hon. CAROLINE SCHAEFER: No, we didn't.

Members interjecting:

The ACTING PRESIDENT: Order! Members on my left will cease interjecting. I cannot hear the member with the call.

The Hon. CAROLINE SCHAEFER: Given the evidence that is now before us, there is little doubt that this minister has completely stopped what was a sustainable fishery with no compensation—no compensation whatsoever. As he said himself, he has made a couple of ex gratia payments—

The Hon. T.G. Cameron: Peter Lewis stopped it. They just went along with it.

The Hon. CAROLINE SCHAEFER: I agree with the Hon. Terry Cameron: it was Peter Lewis who stopped it, but they went along with it, and they are the government of the day; therefore, the egg is on the face of the minister, who must take responsibility for what has happened.

An honourable member interjecting:

The ACTING PRESIDENT: Order, the Hon. Mr Cameron!

The Hon. CAROLINE SCHAEFER: I refer briefly to the evidence that is given in respect of the sustainability of the fishery. The highly publicised isolated events documenting large numbers of native waterbirds trapped in gill nets in the Murray River have resulted from unlicensed fishers using illegal nets. The assertion that native fish stocks and protected species may become extinct through the continued use of gill nets is not evidence based and is not supported by the recent SARDI stock assessment report for the key target species—Murray cod.

Briefly, they are the reasons why this government, if it decided to go down that path—as it did, as a result of a compact with Speaker Lewis—had to acquire people's property rights. It had a moral, ethical and legal obligation to

compensate properly and to give proper notice. It gained power in March last year, and by the end of—

Members interjecting:

The Hon. CAROLINE SCHAEFER: I can actually.

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. CAROLINE SCHAEFER: I have a valuation here, which I will find for the minister, because he obviously has not read it himself, nor has he—

The Hon. P. Holloway interjecting:

The ACTING PRESIDENT: Order, the minister!

The Hon. CAROLINE SCHAEFER: —taken the advice of his department, and I will refer to that in a minute. The minister has bungled and refused to apologise, and he sits there laughing about it in this place. He has spoken of how much the valuation should be. As I say, a number of sections in this finding outline what the independent valuer believes should have been offered.

First, I want to talk about the threat that the minister made to these people. Even in our previous debates, I do not think it became obvious that the minister said things such as:

> I stress that, if you do not accept this offer on or before 30 September 2002, the ex gratia payment of 1.5 times your average annual gross income—

and again I repeat—no recognition of property rights—

> from fishing will be reduced by 50 per cent.

In other words, 'You either take what I offer you, or you get half.' The minister also said:

> It is obviously in your own interest to accept the offer on or before 30 September 2002. If you do not do so, your package will be much reduced.

So, this government—and this minister, indeed—threatened those fishermen, and yet still they have continued to stay out there—I believe with extreme courage.

The Hon. T.G. Cameron interjecting:

The Hon. CAROLINE SCHAEFER: Then his department clearly threatened them. Perhaps the most damning evidence comes at the end of the report. It is quite clear that not only did the minister not take the advice of the Director of Fisheries, he also advised the independent assessor not to take property rights into account. I will quote the advice from the corporate Executive Director of Fisheries (whom I assume to be Mr Wil Zacharin) as follows:

> New South Wales and Victoria have structured a number of inland and inshore fisheries in recent years. It was demonstrated in New South Wales and Victoria that due process must be followed, including independent assessment of licence value, to avoid judicial reviews in the courts. South Australia is using the experience gained in these states to develop a structural adjustment package and a reasonable offer to fishers that minimises the risk of litigation.

Clearly, the minister did not listen to that bit. The advice continues:

> Victoria used a structural adjustment committee comprised of recreational and commercial fishers under tight terms of reference to determine a fair and reasonable offer based on independent economic assessments. This strategy was important in avoiding wholesale litigation and also formed the basis of argument against fishers who chose to litigate.

Yet this minister refused to even speak with the commercial fishers, let alone set up—

The Hon. A.J. Redford interjecting:

The Hon. CAROLINE SCHAEFER: No: what the minister did was go to Loxton, hand out a one-page A4 sheet of paper with a set of demands on it, refuse to answer questions, and leave again.

The Hon. P. Holloway interjecting:

The Hon. CAROLINE SCHAEFER: It takes two and a half hours to get up there, so that would be right.

Members interjecting:

The ACTING PRESIDENT): Order!

The Hon. CAROLINE SCHAEFER: This minister certainly did not set up a committee. He did not consult the commercial fishers. In fact, that advice was given to him on 22 May. Justice Williams also said:

> I note a memorandum dated 22 May 2002 to the minister for fisheries from his Chief Executive reports how the department is endeavouring to minimise the risk of litigation. Personal endeavour to keep the final costs to the minimum possible—

too bad about people's lives—

> consistent with minimising litigation risk, which could be very costly.

An honourable member interjecting:

The ACTING PRESIDENT: Order! The honourable member will speak at a later time.

The Hon. CAROLINE SCHAEFER: Then Justice Williams goes on to say:

> I note that although the government engaged a professional consultant, Dr J. Morrison, to advise upon the proposed compensation package, his terms of reference expressly excluded any valuation of capital assets associated with a river fisher's business. The consultant was also specifically instructed that recommendations on a fair and reasonable package of assistance were not requested from the analyst.

In other words, the government employed a professional consultant to develop a compensation package which was not to take into account—

Members interjecting:

The ACTING PRESIDENT: The honourable member is not being assisted by members on her side.

The Hon. CAROLINE SCHAEFER: —capital assets and the river fisher's business, and he was expressly instructed that recommendations on a fair and reasonable package 'are not requested'. The minister stood in this place and said, 'We have an independent consultant who will work out a fair and equitable package.' What he forgot to tell us was that Dr Julian Morrison had been instructed not to work out a fair and equitable package.

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. CAROLINE SCHAEFER: While we are talking about taxpayers' money, I happen to know that Dr Julian Morrison does not come cheaply.

Members interjecting:

The ACTING PRESIDENT: Order! The Hon. Caroline Schaefer has the call.

The Hon. CAROLINE SCHAEFER: Further, Mr B.R. Spangler of Bentleys Adelaide was asked to provide a commentary on the assessment of valuation. In relation to that matter, Justice Williams said:

> It appears that the government advisers may be approaching this matter as if it were simply a damages claim for personal injury suffered in the workplace. This limited approach does not recognise the value of the capital asset represented by the proprietary interest associated with the licence.

So we have a minister who did not know what he was doing. He refused to listen to the advice of those who might have known what they were doing; refused to accept that there was a property right under law which had been agreed as recently as 1997; refused to accept what is a time honoured practice of an agreement that had been entered into by a previous government; and refused to listen to or consult with the

people most affected. He refuses still to recognise that what he did was wrong. As I said, it is a sign of leadership to recognise when you are wrong and make some sort of reparation. Instead of that we have a minister who has bungled this and who is now going to put these people through personal, financial and mental agony while he pays legal costs for yet another appeal—and probably breaks those people in the process. I am glad he has to sleep at night because I could not. Moreover, it is indicative of what this minister continues to do with primary industries.

The Hon. A.J. Redford interjecting:

The ACTING PRESIDENT: Order!

The Hon. CAROLINE SCHAEFER: This minister has summarily allowed Primary Industries and Resources SA to be gutted by this government. Every day of every week that we sit, I ask yet another question which he cannot answer. He has no interest in or passion for what he is doing. Above all, he is inept. That is probably kind. If he is not inept he is dishonest. He should be censured and he should apologise.

The Hon. R.K. Sneath interjecting:

The ACTING PRESIDENT: Order, the Hon. Mr Sneath!

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

Members interjecting:

The ACTING PRESIDENT: Order!

MEMBERS OF PARLIAMENT (REGISTER OF INTERESTS) (OVERSEAS TRAVEL) AMENDMENT BILL

The Hon. A.J. REDFORD obtained leave and introduced a bill for an act to amend the Members of Parliament (Register of Interests) Act 1983. Read a first time.

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

That this bill be now read a second time.

In January last year the government announced a 10-point plan to improve honesty and accountability in government. The document was littered with terms such as 'tough on conflict of interest', 'increased disclosure', 'more information to the public', 'MPs' code of conduct' and so on. Since then, the sense of urgency regarding the legislative program concerning 'honesty and accountability in government' has been lamentable.

This bill will seek to improve the honesty and accountability of government and I hope will secure a prompt indication of support from the government. The object of the bill is to further bolster government honesty and accountability by ensuring that all overseas travel funded by the government is revealed to the parliament and the public. Quite simply, members of parliament must provide particulars of all overseas travel that they or a family member have undertaken, which travel has been funded in whole or in part by the state, in their primary return to parliament. It covers all members of parliament, including presiding members.

The reasons that underlie the introduction of this bill is that a number of members have had the opportunity to travel on occasions that do not come within the parliamentary travel allowances to which we are all entitled and which receive great publicity. Most travel is undertaken with little or no publicity and without much public scrutiny. In that respect I freely acknowledge—and have done so on numerous occasions in the past—that I had the opportunity to partake in a government-paid trip some 18 months ago when I attended the United States to look at issues relating to insurance liability and other issues concerning volunteer organisations. That led to the passage of two pieces of legislation through parliament and contributed to the former and current government's understanding of liability.

However, some people, particularly those who are cynical, might see that such travel is being awarded or granted in exchange for some incentive or support of a government either to stay in power or for a government position. I am not at this stage making any suggestion that that might motivate the government in terms of offering this sort of travel, but the matter needs to be open and disclosed and ought to be the subject of public comment if needs be. It is important that such conduct is open to public scrutiny in order to ensure appropriate standards of behaviour by all members of parliament and the executive. Corrupt conduct has been defined in many places and can be said to be any conduct of any person, whether or not they are a public official, that adversely affects (or could adversely affect), either directly or indirectly, the honest or impartial exercise of official functions by any public official.

In that respect I need only briefly draw members' attention to the situation of the former New South Wales premier, Nick Greiner, when he offered a position to an independent member of parliament and, whilst it was overturned by a decision of the Full Court of New South Wales Court of Appeal, it was defined by the Independent Commissioner Against Corruption as corrupt conduct. The sort of conduct Mr Greiner was accused of engaging in was not dissimilar to that which might occur (I am not saying it has) in terms of the government offering travel opportunities to individual members of parliament.

MPs using their parliamentary travel are subjected to close media and public scrutiny. However, MPs who are given trips (which is not an uncommon event, given some of the FOI information I have recently received), are not so subjected to public scrutiny. In any event it seems to the opposition that this bill is worthy of consideration and will advance the cause of honesty and accountability not only in government but also in parliament and enable proper public scrutiny of this activity.

In terms of the explanation of the bill: clause 1 is the short title; clause 2 is the commencement clause; clause 3 inserts a heading; and, clause 4 refers to the contents of a members of parliament register of interests return to include 'particulars of all overseas travel undertaken by the member or member of the member's family during the return period that is or is to be funded in whole or in parliament by the state'. I commend the bill to the chamber.

The Hon. J. GAZZOLA secured the adjournment of the debate.

LAW REFORM INSTITUTE

The Hon. IAN GILFILLAN: I move:

1. That this council urges the government to support the establishment of a law reform institute, similar to the institutes that are in existence elsewhere in Australia, and that this institute be empowered as an independent reviewer and researcher of law in South Australia.

2. Further, that this council calls on the Attorney-General to support this institute financially in conjunction with the Law Society of South Australia and South Australia's universities.

This motion stands quite soundly on its own merits, but it may be of interest to members to refer to the fact that Monday week past I organised a conference in this place

called 'balanced justice'. Part of the purpose of it was to stimulate a broader appraisal and analysis of legislation coming before this parliament. A lot of it is over hasty and naively targeted.

I will give some description of how a similar institute is operating in Tasmania. Currently the Law Society is probably the only body providing opinions on law reform or legislation as it comes forward on an ad hoc basis by committees, which I commend. It is on a voluntary basis and is much appreciated.

The Hon. A.J. Redford: Bar Association.

The Hon. IAN GILFILLAN: Angus Redford interjects that the Bar Association does so as well. It has not as yet provided me with such material, but I would be happy to receive it in the interim. I hope we will have a speedy resolution to this motion and get a law reform institute in South Australia.

What would be constructed in South Australia would be based on the experience in Tasmania and in Alberta, Canada. Other states in Australia have institutes, but from South Australia's viewpoint I am advised that Alberta and Tasmania in particular are good models on which to base an institute in this state. It would be independent of government or any other authority that would influence its work. It would enjoy tripartite funding—from the Law Society, the government and from either universities or a university. It would be asked to consider questions on law from requests of the government, motions of itself, the Law Society, and members of the public generally. Its intention would be to be result focused—it is not just a talkfest—and project driven, with specific project teams with intentions to be fulfilled in prescribed time limits.

I intend to look more closely at the Tasmanian exercise in a moment, but some examples off the top of the list are that the institute in Tasmania has looked at custody, arrest and bail, sentencing, physical punishment of children and adoption by same sex couples.

The Hon. A.J. Redford interjecting:

The Hon. IAN GILFILLAN: That was a constructive interjection from the Hon. Angus Redford. A whole range of issues could be looked at by such an institute. The Tasmanian institute, I think, has been established only since 2001, so its work in progress is obviously not exhaustive. But with respect to sentencing, the physical punishment of children and commissions of inquiry, this legislation envisions that the project would be undertaken looking into aspects of the Commissions of Inquiry Act, which was found to be problematic during the Gilewicz inquiry in Tasmania. So, this request was referred from the Attorney-General. In fact, as I look at this brief summary of the issues, several of the issues that are looked into by the institute have been referred from the Attorney-General's office.

The Hon. A.J. Redford: In fact, that would indicate that the Attorney-General could shift resources out of his office into an independent law reform body, so there wouldn't be a net cost to the taxpayer.

The Hon. IAN GILFILLAN: The modus operandi is something that I intend to look at more closely. It may well warrant visiting Tasmania to see this operating in its context. But, as was also suggested, there may be a transfer of some of the work done from the Attorney-General's office into this independent institute. I recommend that honourable members who want to see more detail on this matter could look it up on the internet, and I would be happy to pass on any further detail that would be required to facilitate that.

I would like to look briefly at what would be the foundation of such an institute in South Australia if it follows the Tasmanian example, and in that regard I refer to a document known as the Founding Agreement. This was an agreement made on 23 July 2001 between the government of the state of Tasmania, the University of Tasmania and the Law Society of Tasmania. The institute is established as a research centre within the University of Tasmania and the functions (which are those spelt out for the Tasmanian institute) are as follows:

> The functions and objectives of the institute are:
>
> (a) to conduct reviews and research on areas specified by the board; and
>
> (b) to conduct these reviews and research, where appropriate, on a consultancy basis; and
>
> (c) to consider proposals from the Attorney-General for the reform of the law;
>
> (d) to conduct reviews and research on proposals for reform of the law referred by the Attorney-General; and
>
> (e) to review an area of law with a view to—
>
> (i) the modernisation of the law; and
>
> (ii) the elimination of defects in the law; and
>
> (iii) the simplification of the law; and
>
> (iv) the consolidation of any laws; and
>
> (v) the repeal of laws that are obsolete or unnecessary; and
>
> (vi) uniformity between laws of other states and the commonwealth; and
>
> (f) to make reports to the Attorney-General or other authorities arising out of any review and, in those reports, to make recommendations; and
>
> (g) to work with the law reform agencies in other states and territories on proposals for reform of the laws and any other jurisdiction or within the commonwealth in accordance with the university's standard procedures for the operation of research centres.

There are a couple of other points in relation to the establishment of the institute, as follows:

> 2.3 The performance of the institute's functions and objectives is subject to funding being made available for the purposes of the institute.
>
> 2.4 The university is entitled to charge for undertaking the institute's functions and objectives if the funding is not otherwise available to enable the institute to undertake those functions and objectives.

I read some of this detail into my contribution because it is important that the chamber realises that this is not inventing a brand new entity. This is already up and working, with some thought already put into it in other states in Australia.

The composition of the board would include the Dean of the Faculty of Law at the university; a person appointed by the Honourable the Chief Justice of Tasmania; a person appointed by the Attorney-General; a person appointed by the Law Society; one person appointed by the Council of the university; and no more than two co-opted members. The board should meet at least four times each year. I think that more detail will not be essential for understanding the purpose of the motion. The funding is spelt out here, and I think everyone realises that this needs to be soundly based financially. The following may be of interest to members:

> Funding Facilities and Staff
>
> 6.1 Funding for the institute shall be provided on an annual basis from:
>
> (a) The Department of Justice and Industrial Relations of the government of Tasmania agrees to provide funding of $50 000 per annum.
>
> (b) The University of Tasmania agrees to provide funding of up to $80 000 (including in kind contributions) per annum.
>
> 6.2 The Law Society will support the operation of the institute by the provision of advice on proposals for research projects under clause 4.1(d) and the provision of funding on a case by case basis.

The full text of this agreement is available—it is in my hand—and honourable members who wish to look more closely into it can clearly obtain the full text.

It is my intention to seek leave to conclude my remarks later, partly because I feel that, for this motion to be properly considered by the chamber, I would like to be able to provide detail of the overseas example and also to indicate in a little more detail the sorts of references that I envisage would come to the institute to be dealt with. Those members who have followed what I have said to date will realise that a lot of the work of the institute is unemotional, non-politically oriented analysis of the law as it currently exists, and analysing potential legislation—either new legislation or the amendment of legislation.

As I said earlier in my contribution, I would like it (and I believe it is reasonable to expect that it may well be asked) to analyse the effectiveness of certain aspects of the legislation, in particular, with respect to penalties. So, although I do not regard this motion as a sort of champion for the balanced justice philosophy, which I am so keen to see proceed in South Australia, I think that it would be a very effective instrument to improve legislation in South Australia and, therefore, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

BUDGET CUTS

The Hon. R.I. LUCAS (Leader of the Opposition): I move:

That this council demands the Premier direct the Treasurer to release all answers provided to him by ministers and departments to the question asked by the member for Heysen on 30 July 2002 in the parliamentary estimates committee on the issue of the detail of the government's $967 million in budget cuts.

The basis for this motion has been brewing since July last year, sadly, and some members will have followed, I guess, the ongoing saga in greater detail than others. For the benefit of all members, I will endeavour as quickly as I can to place on the record the history of this issue.

In the budget in July last year the Rann government, contrary to specific election promises, indicated that it would cut from the budgets of various agencies some $967 million. The budget papers did not provide any detail of the $967 million. In the ensuing days, media questions and parliamentary questions were put to the Treasurer, but no detail was provided on the $967 million in cuts. When the parliamentary estimates committees came around on 30 July, having been unsuccessful for a number of weeks in obtaining the detail of those budget cuts, the member for Heysen, Isobel Redmond, on behalf of the Liberal Party, put a specific question to the Treasurer asking for a detailed breakdown of the $967 million in budget cuts.

To put the case for this, this is not an obscure or obtuse request for information which is not of community interest. This is a government which says it will cut a billion dollars from the public sector in expenditure. And this is, on the community's behalf, an opposition seeking to get the detail of what the impact of that billion dollars in cuts will be on individual programs and services.

I might say that during this period the Treasurer and the government were proudly boasting to business organisations, financial rating organisations and financial audiences of their willingness to tackle waste in the public sector, waste that they saw existing within education, health, TAFE, transport and the arts. All portfolios were being targeted in these billion dollar cuts. To those audiences, they were proudly boasting of the billion dollar cuts as an indication of their willingness to reduce public sector expenditure but, to other audiences, they were refusing to provide the detail. It was bad enough that in aggregate they were being exposed for having broken specific election commitments not to reduce expenditure in areas such as education, health, employment and training and police. They were therefore desperate, and continue to be desperate, not to be forced to release the detail of the individual programs and service cuts.

When that question was asked by the member for Heysen on 30 July, the Treasurer, with his renowned humility, said that he had all those answers, but that he gathered that the member for Heysen was not wanting to wait around until four o'clock the next morning listening to the detail of all of those answers, so he would respond to the estimates committee questions. The estimates committee questions are to be replied to within two weeks; the Premier and the new Speaker made great play of the fact that they would be insisting that ministers would have to respond to questions raised in the estimates according to those guidelines.

The opposition, as a result of that, did not pursue those particular questions. There was a promise from the Treasurer to provide those answers, and the opposition, foolishly perhaps, accepted the word of the Treasurer as, I guess, a number of organisations, such as the Australian Hotels Association, have trusted the word of the Treasurer. Some, indeed, as in the case of some industry associations, have received letters of commitment—to their own cost. As I said, during the estimates committee the opposition therefore did not pursue those questions because of that particular promise and commitment from the Treasurer.

Some weeks and months went by while the Treasurer and the government refused to provide responses. We know from discussions with ministerial officers, or officers within other ministers' offices, that the Treasurer required all ministers to present to the Treasurer's office breakdowns of their particular answers to this question for 'collating and checking', as it was euphemistically called. So, between September and November, ministers' officers responded to the Treasurer's office with answers to this particular question.

The Treasurer and his officers, in looking at the answers, decided that it was not in the political interests of the government to answer the question, as had been promised by the Treasurer. Indeed, I understand there was some consternation as to why on earth the Treasurer had agreed to provide answers to this particular question about the $967 million in budget cuts. So, the Treasurer and his officers then ordered a doctoring of the replies that had been provided by other ministers' offices. That is, an answer was to be produced in aggregate which did not provide any detail of the individual program and service cuts, and did not allow the opposition or the community to know, for example, what the impact might be on the employment and training budget.

So, using the Hon. Jane Lomax-Smith as an example, the Treasurer produced an aggregation of answers across all her different portfolios. The minister has a connection with four or five government departments—the Department of Premier and Cabinet; the old industry and trade department; the employment and training department, whatever that is now called; the Department for Administrative and Information Services and one other department. There are five, and there was an aggregated response for that minister in what they called 'expenditure reprioritisation'. In Rann speak it is not called budget cuts any more; it is 'expenditure reprioritisa-

tion', and the minister's component of that from recollection was something over $100 million. But it is impossible to be able to tell from that, for example, what the impact on the employment and training section of that minister's budget is.

If anyone were interested in employment and training, as many of us are, whilst we know that the total expenditure cutback is over $100 million, we do not know whether most of that is coming from the employment and training budget, and in particular we do not know which particular programs or services are being cut in the employment and training area. So, having deliberately doctored the answers provided by the minister's officers, the Treasurer then decided to release the aggregated information two days prior to Christmas.

So, for Monday 23 December, from recollection, the *Advertiser* was given a copy of the answer, but in Christmas week, of course, the Rann government was able to escape significant scrutiny of the budget cut information because the media's attention was not directed at that stage to political issues. At the press conference that the opposition called, I think one television station was interested enough to send someone along, but most of the political journalists had already taken Christmas leave or were certainly into the Christmas spirit and were not looking to cover a negative political story in relation to the new Rann government.

However, that information did reveal, for the first time in some of the portfolios, that, unlike the case of the Hon. Jane Lomax-Smith's portfolios—and I give the examples of the Hon. Lea Stevens, who is only Minister for Health, and the Hon. Trish White, who is only Minister for Education—it was possible for the first time to find out that the actual cuts in health and education were $256 million. Included in that, too, were the cuts to the Hon. Stephanie Key's portfolio in relation to social justice issues as well.

If one is looking broadly at the total cuts to education, including employment and training and human services, a proportion of the $100 million plus cuts in the Hon. Jane Lomax-Smith's area would need to be incorporated as well. I do not have that table with me so I may well seek leave to conclude so that on the next Wednesday of sitting I can seek leave to have incorporated in *Hansard* those statistical tables that were released by the government.

That, at least, confirmed absolutely that the promise made by Premier Rann and Treasurer Foley that what they called during the election campaign 'an efficiency dividend' did apply to the education and health portfolios. During the election they had given a specific commitment that there would be no efficiency dividend, no savings target for the education and health portfolios. When asked on a number of occasions whether their promises of money for education and health would be new money additional to what was already there and would not require expenditure reprioritisation, Premier Rann and Treasurer Foley said absolutely yes, that no savings would be required of the education and health portfolios.

Sadly, as with many others made by this government, those promises were explicitly broken in its first 12 months in office. During the Christmas/New Year period the opposition again sought the release of the detail of the budget cut information, and in early January the Liberal Party lodged 14 separate freedom of information requests to ministers' offices to get copies of the information that they had provided to a parliamentary question and had sent to the Treasurer's office.

I note that we are debating the freedom of information legislation at the moment, and the Hon. Mr Gilfillan and I are taking a role in that. The opposition has been criticised for the large increase in the number of freedom of information requests, but here is a perfect example of one of the reasons why. The opposition asked a parliamentary question, ministers provided answers to the Treasurer's office to that question, expecting them to be released, and they have been hidden by this government—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: They didn't have the answers in them.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, they didn't have the answers in them. They have been hidden by this government. As a result of that we have had to lodge 14 separate FOI requests. When we next debate the bill the Leader of the Government will say, 'This is outrageous: the opposition is flooding us with freedom of information requests.' One way of reducing the number of freedom of information requests would be to have this government respond to reasonable parliamentary questions that have been asked in the estimates committees; in this case, a question to which the Treasurer said he had answers that he was prepared to provide if members were prepared to wait.

The Hon. J.S.L. Dawkins: Wait for how many months?

The Hon. R.I. LUCAS: Since July last year, so now almost seven or eight months. Similarly I had to lodge 14 freedom of information requests to Minister Holloway, Minister Roberts and other ministers' offices for another estimates committee question that they are refusing to answer, that is, the level of under-spending of programs in the past financial year and what was agreed to be carried over into this financial year. Again, it was a parliamentary estimates committee question which eight months later has not been answered by the Treasurer and each minister.

Similarly, we asked a parliamentary estimates committee question on the number of full-time employees in each department last year and this year: simple questions, and the answers exist within departments. Again, after seven or eight months with no answer we have had to lodge another 14 freedom of information requests, so again we will have the Leader of the Government saying, 'This is an outrageous abuse of freedom of information, because we are being flooded with FOI requests' when, if this government and these ministers would actually answer the questions that were put during the estimates committee process, all these freedom of information requests would not have to be lodged by the opposition.

In February this year the opposition started to receive replies to these 14 freedom of information requests and, as I have said, for the first time in my memory of South Australian freedom of information legislation—and I go back to the start of it in the 1980s, and I think probably the only other members who do so are the Hon. Ian Gilfillan, the Hon. Diana Laidlaw and probably the Hon. Terry Roberts, although I am not sure whether pre-1985—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The genesis for freedom of information debates was in the late 1980s with Martin Cameron as the then leader of the opposition. But right from the word go we have been there. I cannot recall any minister or any government ever having the effrontery to try this particular response that this government has now so far successfully given. That is, a question is asked in a parliamentary estimates committee, ministers or public servants provide answers to those questions, and then the government

refuses an FOI request on the basis of parliamentary privilege. When we first got this one, I warned that we would see this government starting to use that for an increasing number of FOI applications. You can see how this could be abused.

Any question could be asked by the opposition or, indeed, by one of the government's own members, a response could be provided by the Public Service to a minister and the government would be able to argue that parliamentary privilege prevents the release of any information on this topic because it has been produced in response to a parliamentary question. Any member who is genuinely interested in freedom of information legislation will see that this is the grossest abuse of freedom of information legislation that this state has ever seen. As I said to a national commentator who is looking at this issue, I think it is the grossest abuse of FOI legislation of any government in Australia's history.

This commentator, who is looking at all states' FOI legislation and all state and commonwealth FOI experience, has at this stage agreed with me that he can find no precedent for any government in the history of FOI legislation to be using the parliamentary privilege response to stop an answer to a question that was asked in a parliamentary estimates committee. This government and this minister are in a rarefied atmosphere at the moment on this issue: they may well be able to claim themselves as world leaders in relation to being able to hinder and restrict freedom of information legislation. The concern I have is that this will be used by the government in other areas. We have now seen this again in February. Last year all other ministers, including Premier Rann, with some exemptions claimed for some documents (as required by the freedom of information legislation), had to release information on the parliamentary estimates committee briefing folders.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The legislation has always allowed it: it had just never been asked for. The legislation always allowed it. The opposition in the past was always too lazy to work its way through the FOI legislation and never asked for it. Crown law made quite clear, as I was aware, that this information would have to be released. All ministers (including the Premier) last year released it, except for the Treasurer. And what happened in February this year? We had a response from the Treasurer that he claimed parliamentary privilege, or his officers claimed it on his behalf, that this information had been prepared for a parliamentary process and therefore it was under parliamentary privilege and he could not release it.

We have Minister Holloway, Minister Terry Roberts, the Premier and others who all released information obviously breaching parliamentary privilege, if one is to believe this response from Treasurer Foley. What we have is one rule being claimed by Treasurer Foley completely contrary to what was released last year by Premier Rann and all other ministers with the exception of Treasurer Foley. So, what I have warned about is starting already. Treasurer Foley, the most secretive Treasurer ever in relation to openness and accountability, is refusing now to provide information that even the Premier and all other ministers were prepared to release.

One of the reasons, as a Treasury officer advises me, is that the information in the Treasury estimates folder would prove significantly embarrassing to the Treasurer if that document were ever to be released, because it contradicts statements that Treasurer Foley has made in the parliament and publicly in relation to budget issues. That is the advice that I have received from a senior Treasury officer, and that is why Treasurer Foley has been fighting to prevent the release of all this information.

That is the sad and sorry saga, I am afraid to say, in relation to this simple request for details of the $967 million in budget cuts. I hope that we can achieve bipartisan support for a motion in this council and in the other place to direct the Treasurer to release all these answers. I hope that the Premier will have second thoughts about being part of this secretive government, this government that is refusing to be open and accountable. I hope that he will have second thoughts and direct the Treasurer, consistent with this resolution, to release the information; if not, I hope that members of the cross-benches in this council and in the other place will be prepared to direct the Premier.

From what I have seen of the member for Mitchell (Mr Hanna), he has certainly been very interested in openness and accountability, and I hope that he will consider favourably this resolution and put pressure on his former leader, whom he has criticised as being interested only in media management issues, to try to find the detail of which program and service cuts will be instituted; not only the member for Mitchell but also one hopes that (given the statements that they have made in recent times about openness and accountability) the members for Chaffey, Hammond and Fisher may find themselves favourably disposed towards putting pressure on this secretive government and its secretive ministers, who want to keep this information from the community.

Members of the government's spin doctoring team have been running around the media saying, 'Look, if these cuts were actually going to have any impact on the community, you would have heard much more of a scream than the ones that have already occurred.' Obviously, we have heard of the impact on the Intellectually Disabled Services Council, the Julia Farr Centre, the Autism Association, the Community Crime Prevention Funding and, in recent times, the potential closure of neonatal clinics and a number of other cuts in the health area as well. The government spin doctors have been running the line that these are really just cuts in administration and there would be no impact on the community; if there were, we would have been hearing more about it than we have heard so far; and that all this information was available in the budget papers. Well, even the media are not swallowing that line.

This billion dollars in budget cuts is over a four-year period. A number of community and other organisations will not yet be aware which services and programs will be cut. The employment and training budget, for example, probably has 20 to 30 separate job market programs in one area, retraining programs, and so on. They are all funded for various lengths of time—that is, one program may well have funding through to 30 June this year, and another one may be funded until 30 June next year. It is not until that time period ticks over that the issue of whether or not there is replacement funding becomes apparent, and there will then be heat from the community as to that program being either cut significantly or removed completely.

The Regional Development Infrastructure Fund is a fund which has been very successful in regional communities and has played an important role in their extraordinary regeneration which we have seen in the last two to three years. As part of these budget cuts, there is a very significant reduction in the Regional Development Infrastructure Fund. Ministers responsible for that in this government sooner or later will have to fess up to those cuts and their impact on regional

communities. It will only be when those ministers are finally forced to be honest with their communities that the size of the reduction in the Regional Development Infrastructure Fund over the forward estimates period will perhaps become apparent not only to those ministers and their officers but also to the communities that they serve.

I assure members of the backbench, who are kept blissfully unaware and treated like mushrooms (as the member for Mitchell has made quite clear) about key decisions in the government, that this billion dollars in budget cuts will have a continuing series of political pressure points for this government over the three to four-year period, because communities will become aware of them only over the next three years or so as the individual cut factors in, or when this government and its ministers are honest enough to indicate that a program will be cut, and that is before the further cuts that the current Treasurer is talking about instituting in the coming May budget. So, we are not talking about the coming cuts, we are talking about the cuts that were announced in the budget of last year.

All the opposition is seeking to do—and has been since July—is to place on the public record the detail of the government's budget decision. It is not seeking secret or hidden information that has not been talked about publicly in the aggregate—that is, this $967 million. The community has a right to know, and we hope that members of parliament in both houses, if not government members, will unite to put pressure on this secretive government and these secretive ministers to release information. As one or two members of the Labor caucus have said to me in a quiet period, they too want to know where these cuts will impact in their communities. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

ROXBY DOWNS, SPILL

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P. HOLLOWAY: At approximately 4.30 p.m. today, the government was formally advised by Western Mining Pty Ltd of a spill of some 210 cubic metres of slightly acidic process fluid containing approximately 160 parts per million of uranium at its Olympic Dam operations. The incident occurred at 7.20 p.m. on 18 February 2003. They advised that this material was contained in the immediate process area. There was no environmental impact or occupational health and safety risk to personnel. The material has been recovered and returned to the process cycle, and the area has been cleaned.

This incident is the first to be reported to the government under the new reporting criteria developed from the Bachmann report. The EPA, Workplace Services and my department were advised of the incident simultaneously, in accordance with the Bachmann report recommendations. Details of the incident will be posted on the PIRSA web site.

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

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

That the time for bringing up the report of the committee be extended until Wednesday 16 July 2003.

Motion carried.

SELECT COMMITTEE ON PITJANTJATJARA LAND RIGHTS

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That the time for bringing up the report of the committee be extended until Wednesday 16 July 2003.

Motion carried.

SELECT COMMITTEE ON RETAIL TRADING HOURS

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That the time for bringing up the report of the committee be extended until Wednesday 16 July 2003.

Motion carried.

DEVELOPMENT ACT REGULATIONS

Order of the Day, Private Business, No. 5: Hon. J.M. Gazzola to move:

That the regulations under the Development Act 1993 concerning excavations and other activities, made on 17 October 2002 and laid on the table of this council on 22 October 2002, be disallowed.

The Hon. J. GAZZOLA: I move:

That this order of the day be discharged.

Motion carried.

Order of the Day, Private Business, No. 8: Hon. C. Zollo to move:

That the regulations under the Development Act 1993 concerning cover requirement revoked, made on 26 September 2002 and laid on the table of this council on 15 October 2002, be disallowed.

The Hon. J. GAZZOLA: I move:

That this order of the day be discharged.

Motion carried.

SUMMARY OFFENCES (LOITERING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 November. Page 1407.)

The Hon. CARMEL ZOLLO: This bill amends section 18 of the Summary Offences Act 1953 to give a police officer another ground (in addition to the existing four grounds),on which to rely, to request a person to 'cease loitering'. The bill would allow a police officer to request a person or group to 'cease loitering' if the police officer believes or apprehends on reasonable grounds:

That the person or one or more persons in the group is acting or has acted, in a manner likely to create distress or fear of harassment in a reasonable person within sight or hearing of the person or group.

The government opposes the bill, as it does not add anything to existing police powers.

Members interjecting:

The PRESIDENT: Order! Members will come to order or they will not be loitering around in here for much longer.

The Hon. CARMEL ZOLLO: As I was saying, it does not add anything to existing police powers, which are wide

enough and very extensive. Where there are any threats to the peaceful enjoyment of streets or other public places, the existing law contains powers which are stronger and which can be used at an earlier stage than those proposed by this bill. If the amendment would alter anything in the existing law, and that is doubtful,it would give police the power to discriminate against persons solely on the basis of their appearance.

The current form of section 18 was, and is, a careful balance between the rights of individuals and the social need to diffuse and dissipate explosive or dangerous situations. Section 18 was redrafted in its current form in 1985, as a compromise between the position of the Mitchell Committee that all loitering offences be repealed, the acceptance by the Supreme Court of the need for such powers, and the arguments of police and some traders for greater police powers. Even with the 1985 changes, it remains the broadest police power of its kind in Australia.

The courts have interpreted section 18 as giving the police very wide powers to order people to cease loitering. The use of the power requires a police officer to first form a belief or apprehension on 'reasonable grounds'. I am not aware of any decisions on the meaning of 'reasonable belief' or 'apprehension on reasonable grounds' in the context of this section. It does not seem to have ever been a problem. The Supreme Court, in Stokes v Samuels (1973) 5 SASR 18 has said that it is desirable, though not even necessary, that a police officer give evidence as to his 'belief'. The relevant state of mind will be assumed by the court if the police officer behaves as if he has such a state of mind, and a reasonable person in the circumstances would have had that state of mind.

Section 18(1)(b) permits police to act on a 'breach of the peace' or an anticipated 'breach of the peace'. The meaning of this phrase 'breach of the peace' is very wide. According to the summary in *The Laws of Australia*.

> The definition of 'breach of the peace' is broad, encompassing 'apprehended' as well as 'actual harm to persons or property'.

Section 18(1)(a) is even broader in its scope. It permits police to act whenever, in the police officer's reasonable belief, any offence has been 'or is about to be' committed. The Hon. Mr Lawson is concerned about gangs loitering in the street. In these circumstances, it is likely that the offence of 'disorderly behaviour' might be committed. If that is a police officer's reasonable belief, then there is power to act.

The Supreme Court case of Campbell v Samuels (1980) 20 SASR 389 illustrates the point. In that case, an accused, who was demonstrating against a visit by the Prime Minister, was convicted of 'disorderly behaviour' after becoming involved in heckling, and jostling of no great force, with one of the Prime Minister's supporters. The court found that the accused was using a street or footpath for a purpose other than the exercise of the right to pass and re-pass and she was doing so in a 'rude and inordinate fashion'.

Justice Zelling adopted, as a definition of 'disorderly behaviour':

> Any substantial breach of decorum which tends to disturb the peace or interfere with the comfort of other people who may be in, or in the vicinity of, the street or public place.

This suggests that the offence of disorderly behaviour (section 7 of the Summary Offences Act) may easily be committed by many who threaten the public peace on the street or footpath. It follows from this that when a member of the police force believes or apprehends on reasonable grounds that the offence of disorderly behaviour (or any other even minor offence) has been or is about to be committed, then the police officer has the power under section 18 to request that person to cease loitering. It is not even necessary for police to form any belief about a potential breaching of the peace or an offence such as disorderly behaviour. If a loiterer is blocking the footpath or part of the road and is obstructing or is about to obstruct the movement of pedestrians or vehicular traffic, then section 18(1)(c) gives police the power to ask loiterers to move on. I move now to the reasons which the Hon. Mr Lawson gave in his second reading speech on 20 November last year to support this bill. He expressed the view that in Victoria police found that they had insufficient legislative power to require Blackshirt vigilantes to move on from where they were standing around outside the premises of people, usually women, who had been engaged in Family Court proceedings.

It is irrelevant to argue that, because police in Victoria have insufficient powers, we need to amend our own Summary Offences Act. In Victoria there are several loitering offences, none of which are directly comparable to section 18 of our Summary Offences Act 1953. In Victoria, merely 'loitering' is not an activity generally subject to control by police, unless it is accompanied by one or more specific aggravating factors about either the person or the place, or both. Our police, unlike Victoria's, do have an explicit power to order loiterers to move on. In any event, I note that one of the 'Blackshirts' has been committed to stand trial in Victoria on a charge of stalking.

The Hon. Mr Lawson has suggested that it is 'fairly onerous' to ask a police officer to satisfy a magistrate that he 'entertained on reasonable grounds that, for example, an offence was about to be committed'. There are two responses to that: first, as I have already pointed out, there does not appear to have ever been any difficulty establishing in court that a police officer held a reasonable belief or apprehension on reasonable grounds that one of the matters in section 18(1A)(2)(d) has been satisfied; secondly, as the Hon. Mr Lawson has pointed out, section 18 is really designed to codify the circumstances in which police can act. The possibility of convicting someone for a breach of section 18(2) is a secondary consideration.

The primary effect of section 18 is to give police the power to disperse gatherings or to order persons to move on. If persons disregard that request, they may be arrested pursuant to section 18(2). The power to avert what is perceived to be the imminent likelihood of an offence or breach of the peace therefore is exercised by a police officer at the time of the relevant behaviour, without immediate regard to a magistrate.

When a perceived danger or potential breach of the peace arises, police can and should act immediately. If a court later finds that a police officer's belief or apprehension was not objectively reasonable, that would prevent a conviction under section 18(2). But the immediate danger, as it was perceived at the time by the police officer, would by then have passed and the magistrate's finding would not prevent the same police officer taking action under section 18(1) the next time he or she formed the necessary belief or apprehension. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

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

STANDING ORDERS SUSPENSION

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

That standing orders be so far suspended as to enable the council to note the current international crisis involving Iraq and the threat of war in the Middle East.

Motion carried.

IRAQ

The Hon. P. HOLLOWAY: I move:

That the council notes the current international crisis involving Iraq and the threat of war in the Middle East.

Last weekend, a sea of people across every state in Australia spoke out against war. Coming from all backgrounds and spanning generations, approximately 500 000 Australians, including 100 000 in South Australia alone, sent our Prime Minister an important message: we are not with you. Regardless of John Howard's reaction to this groundswell of public protest, it is clear that the federal government is vastly out of step with the wishes of the Australian people on this issue.

Today I attended a remembrance service to commemorate the 61st anniversary of the Darwin bombing. It is perhaps fitting that on this day we debate the possibility of Australia's going to war once again. But the differences between that war and this are incalculable. We are all aware that Saddam Hussein is a tyrant and that his regime has an appalling human rights record. We also know that chemical and biological weapons have been used against his own people. But it is these ordinary people who will suffer most if war returns to Iraq. The violations of human rights suffered by many of the Iraqi people, particularly ethnic and religious minorities, are manifold and well documented.

It is unfortunate that we in the west chose not to recognise this fact at an earlier date and chose, rather, to court Saddam as a useful secular buffer against what was seen as a tide of fundamentalism in the Middle East—made alarmingly clear by the Iranian revolution of 1979. Indeed, western nations continued to offer assistance with the means of initiating an Iraqi nuclear industry and with the assembly of chemical weapons (weapons which were used in the war against Iran and against the Kurdish minority in the north of Iraq in the late 1980s) right up until the day before the Iraqi invasion of Kuwait in 1990. According to the United Nations, up to 1.4 million refugees will be created as a result of war against Iraq, along with tens of thousands of deaths occurring as a direct result of warfare or the famine and disease that would inevitably follow.

The Australian Labor Party believes that the path to the disarmament of Iraq is through the United Nations and not through unilateralism. Australia has always had a strong commitment to the United Nations, starting from our own involvement in its creation, with a former Labor foreign minister, Dr Evatt, being the founding president of the General Assembly and Norman Makin, former federal navy munitions minister, being the first chair of the Security Council. Labor has a strong commitment to this nation's alliance with the US. This alliance was forged in the years of Labor prime ministers Curtin and Chifley. It has clearly been to our mutual benefit and has been a significant factor in regional security for over 50 years. But we also have a strong commitment to the United Nations. The UN exists as a mechanism for peace and the rule of international law. A strong United Nations can ensure that nations disarm and can stop the spread of weapons of mass destruction. But this can only occur through the cooperation of member nations. The UN was specifically created because of the failure of the League of Nations, which collapsed when countries chose to break away from the collective authority. It is therefore vital that all member nations continue to support the authority of the UN.

We all know how close terrorism has come to Australia. The terrible bombings in Bali last year affected all Australians. It is clear that we as a nation need to consider our place in this world and the ramifications of our actions on an international level. As the Hon. Simon Crean stated in the federal parliament's debate on Iraq earlier this month:

> . . . the issues of international security, global security and regional security are complex. No one country, no matter how powerful, can solve them on its own. By putting its eggs in the basket of unilateralism and not multilateralism, Australia is not just undermining the UN, but setting back the process of dealing with these issues properly and effectively in the region.

However, it appears that Australia is determined on this occasion to ignore the combined wisdom of the Australian people and to align with a policy of unilateralism. It is reported that the Howard government is sending more than 2 000 troops—twice the number committed in Afghanistan and three times what was committed to the Gulf War in 1991 (an action legally sanctioned by a decision of the United Nations).

The ALP has consistently stated that the weapons inspectors in Iraq should be given the opportunity and support to finish the work they are doing, and that the UN Security Council should continue dealing with the issue of disarming Iraq. Richard Butler, former chief United Nations weapons inspector in Iraq, was recently asked what he thought would be the consequences for Australia if the US commenced unilateral action against Iraq. Mr Butler stated:

> I think they're incalculable, not just for Australia but for the world. The world will have been moved to a place that abolishes 50 years of cooperation in the UN since the end of the Second World War. It will have been moved back to the place where the rule of law and consultation and cooperation amongst countries has been replaced by the old-fashioned rule of muscle, of might. Where that will lead in the Arab world, in the world economy, in the numbers of people dead, in terrorism, God only knows. I would love to hear a clearer definition than the Prime Minister has been able to give of how that is in Australia's interest.

In the end, this is what all Australians are waiting for and have yet to receive. I ask the Prime Minister to consider the views of the Australian people, many of whom demonstrated publicly for the first time last weekend. They spoke out for peace and asked the Prime Minister to listen to their collective voice. It is vital that the authority of the United Nations be respected and followed. This is fundamental to the way in which international conflicts are resolved. In order to achieve a more peaceful and secure world, a strong United Nations must be upheld.

The Hon. SANDRA KANCK: An hour and a half ago, I farewelled Adelaide woman Ruth Russell who has flown out from Adelaide to begin her journey to Iraq where she will be a human shield against US bombs if such bombings begin in the next three weeks. She ought not to have had to take such action. But the decisions and the actions of Australia's Prime Minister have left the majority of Australians with little other recourse.

This morning I copied the words from a web site put together by a Yorke Peninsula couple, Ron and Alenka, which reads:

> To cease to question and meekly submit to every whim of any government is to fail in one's duty as a citizen.

Ruth Russell is taking citizenship to the max. UNICEF, a respectable, non-political international organisation to which I send donations three or four times a year, coincidentally, wrote to me in a letter that I received yesterday soliciting donations for the work that it is doing with children in Iraq, and I want to quote a couple of paragraphs. The letter states:

> When emergencies happen, it is always the children who are most vulnerable. When food supplies run short, it is the children who are hardest hit. And when water supplies are contaminated, it is children who have the least resistance to disease.
>
> Half the population of Iraq are children, a quarter of whom are malnourished. Infant mortality has more than doubled over the past decade. The lack of safe drinking water results in diarrhoea, typhoid, cholera and dysentery. And of the 25 per cent of children who should be in school, too many are forced by economic necessity to work.

Members interjecting:

The Hon. SANDRA KANCK: So, why are things so bad in Iraq? Yes, that is a question that we started to get some interjections on then. The reason things are so bad in Iraq is the sanctions that the western world has put in place.

The Hon. T.G. Cameron: What about the $10 billion a year Saddam is spending on weapons?

The Hon. SANDRA KANCK: Let me read some of the things on the list of items that are banned from being brought into Iraq, then you can interject. I will read just some of them. Aid agencies cannot take in ambulances. They cannot take in baby food. They cannot take in bandages, blankets or boots. They cannot take in children's bicycles or children's clothes. They cannot take in deodorants. They cannot take in disposable surgical gloves. They cannot take in hair shampoo. They cannot take in women's sanitary pads. They cannot take in toilet paper, toothbrushes or toothpaste. Then you wonder why the situation is so bad in Iraq. Western democracy has caused that. We have starved the children of Iraq. We have been party to the starvation of children in Iraq. We have stopped them from healing and now we want to bomb them.

The Hon. T.G. Cameron: Saddam's blameless, is he?

The PRESIDENT: Order! This is a solemn and serious occasion and I think all members should maintain the dignity of the council and allow each member to put their heartfelt views before this chamber. Everyone will have an opportunity to speak at some time. The Hon. Ms Kanck has the call.

The Hon. SANDRA KANCK: There are many reasons for Australia to disconnect itself from the axis of insanity to which John Howard has joined Australia with George Bush and Tony Blair. Let us look at the three main arguments that have been used to justify the build-up of troops in the gulf. The first is that Saddam has gassed his own people. We have been told over and over again that Saddam is an evil man, and proof of that is that he gassed his own people at Halabja. But a former CIA agent who was involved in investigating that has put on record as of 31 January that this is not the case. I quote from this man, Stephen C. Pelletiere, as follows:

> We cannot say with any certainty that Iraqi chemical weapons killed the Kurds. This is not the only distortion in the Halabja story. I am in a position to know because, as the CIA's senior political analyst on Iraq during the Iran-Iraq war and as a professor at the Army War College from 1988 to 2000, I was privy to much of the classified material that flowed through Washington having to do with the Persian Gulf. In addition, I headed a 1991 army investigation into how the Iraqis would fight a war against the United States. The classified version of the report went into great detail on the Halabja affair. This much about the gassing at Halabja we undoubtedly know: it came about in the course of a battle between Iraqis and Iranians. Iraq used chemical weapons to try to kill Iranians who had seized the town, which is in northern Iraq, not far from the Iranian border.
>
> The Kurdish civilians who died had the misfortune to be caught up in that exchange, but they were not Iraq's main target. And the story gets murkier. Immediately after the battle, the United States Defence Intelligence Agency investigated and produced a classified report, which it circulated within the intelligence community on a need-to-know basis. That study asserted that it was Iranian gas that killed the Kurds, not Iraqi gas. The agency did find that each side used gas against the other in the battle around Halabja. The condition of the dead Kurds' bodies, however, indicated that they had been killed with a blood agent, that is, a cyanide-based gas, which Iran was known to use. The Iraqis, who are thought to have used mustard gas in the battle, are not known to have possessed blood agents at the time.

This former CIA agent says:

> I am not trying to rehabilitate the character of Saddam Hussein: he has much to answer for in the area of human rights abuses. But accusing him of gassing his own people at Halabja as an act of genocide is not correct because, as far as the information we have goes, all of the cases where gas was used involved battles. These were tragedies of war. There may be justifications for invading Iraq but Halabja is not one of them.

That is one of the prime arguments being used as an excuse to bomb Iraq, and if that is one of the prime arguments then the proponents have stumbled at the first gate. The jury is definitely still out on that one.

The second main reason that is given is that the regime is corrupt and must be replaced. I do not know anyone in Australia who is saying that Saddam is a nice man, but is bombing Iraq going to bring about the change that the US wants to see? It was done in 1991. Clearly, it did not work, otherwise we would not be having this discussion now.

The prospect of war, with significant political leaders not listening, has brought about the development of some very black humour amongst peace activists and some very ordinary Australians. They found some very humorous ways to put the facts. One of these is the 'Quick political scholastic aptitude test.' It says:

> This test consists of one multiple choice question. Here is a list of the countries that the US has bombed since the end of World War Two: China, 1945-46; Korea, 1950-53; China, 1950-53; Guatemala, 1954; Indonesia, 1958; Cuba, 1959-60; Guatemala, 1960; Congo, 1964; Peru, 1965; Laos, 1964-73; Vietnam, 1961-73; Cambodia, 1969-70; Guatemala, 1967-69; Grenada, 1983; Libya, 1986; El Salvador in the 1980s; Nicaragua through the 1980s; Panama in 1989; Iraq 1991-2002; Sudan, 1998; Afghanistan, 1998; Yugoslavia, 1999; Afghanistan, 2001.

Then comes the trick question, folks:

> In how many of these instances did a democratic government respectful of human rights occur as a direct result? Choose one of the following: (a) nought; (b) zero; (c) none; (d) not a one; (e) a whole number between minus one and plus one.

What this shows is that bombing countries because you do not agree with their political system does not produce the results. In fact, it can even result in the opposite, as happened in Afghanistan, when a more extremist and fundamentalist regime was installed as a consequence.

The third reason given is that Saddam Hussein has disobeyed UN resolutions. Well, so has Israel. Again and again it has flouted UN resolutions. In doing so, it has contributed significantly to the parlous situation that we have in Palestine, which has so much to do with the emergence of al Qaeda and subsequent terrorism. Israel has flouted 54 UN resolutions, but we are not bombing Israel and I have not

heard George Bush make any pronouncements on Israel's behaviour, let alone make any threats.

Meanwhile, in the US George Bush has done such a darned good job on people that 50 per cent of them really do believe that it was the Iraqis that bombed the World Trade Centre, which plays very nicely into George Bush's hands, because he is easily able to manipulate his own people. The fact is that Osama bin Laden is a Saudi, and a majority of those who were directly involved in the 11 September attacks were Saudis, so why is the US not attacking Saudi Arabia?

Let us see what the real reasons are. First, there is oil and gas. Some of the largest undeveloped oil and gas fields in the world are in Iraq. I quote from the newspaper *Lloyd's List DCN* of 31 October last year. This was before weapons inspectors had gained access. It is very interesting in terms of companies and countries jostling for trade dominance in this. The article reads:

> If weapons inspectors regain access, the United Nations would likely be placed under pressure to ease sanctions, leaving Iraq to award its erstwhile supporters with contracts. Here the market would likely see Russia, China and France playing a large part in the rebuilding of the nation's oil industry. But if Saddam's government is forcibly overturned, the US—maybe behind a veil of non-US firms and UK firms—would muscle their way back into Iraq, leaving Russia, France and China with a reduced share.

It puts a different picture on it. One of the other aspects of what is going on is water. I remember that after the last Gulf War the conservation movement said that the next major war wherever it happened would be over water. The same ex CIA agent, who has written this article about Halabja, also talks about the impact of water. He says:

> We are constantly reminded that Iraq has perhaps the world's largest reserves of oil, but in a regional, and perhaps even geo-political sense, it may be more important that Iraq has the most extensive river system in the Middle East. In addition to the Tigris and Euphrates, there are the Greater Zab and Lesser Zab rivers in the north of the country. Iraq was covered with irrigation works by the sixth century AD and was a granary for the region. Before the Persian Gulf War, Iraq had built an impressive system of dams and river control projects, the largest being the Darbandikhan Dam in the Kurdish area, and it was this dam the Iranians were aiming to take control of when they seized Halabja.
>
> In the nineties, there was much discussion over the construction of a so-called 'peace pipeline' that would bring the water of the Tigris and Euphrates south to the parched Gulf states and, by extension, Israel. No progress has been made on this, largely because of Iraqi intransigence. With Iraq in American hands, of course, all that could change. Thus, America could alter the destiny of the Middle East in a way that probably could not be challenged for decades, not solely by controlling Iraq's oil but by controlling its water.

Some people are content for Australia to be involved if the UN agrees to such an attack. But Australia is not being directly threatened by Iraq, nor are Australia's interests threatened. However, if we attack, our interests will be threatened.

Iraq has already knocked back shiploads of Australian wheat. If an attack on Iraq results in retaliatory trade measures from sympathetic Islamic countries, our South Australian car industry is under threat, because the Australian car industry currently exports $1.9 billion worth of cars per annum to the Middle East. Further, by joining the axis of stupidity, Australia is made a bigger target. Bali should have given the message that fundamentalists are on our doorstep. Aligning and actively involving ourselves in attacks on Iraq gives a message to those fundamentalist cells in Indonesia that we stand against them.

Our interests are not threatened by Iraq but, if we are involved a war with Iraq, our interests in East Timor will very likely be threatened. Other possible outcomes are an escalation of hostilities between Israel and Palestine and its supporters and the alienation of Saudi Arabia and world money markets. We should remember that Saudi Arabia has $600 billion to $700 billion of its money invested in the US, and it can very easily collapse the world money market overnight. Of course, there will be thousands of refugees—refugees whom the Australian Government will not want to know about.

I also raise a matter of concern relating to responses to the turnout to the peace rallies around the world on the weekend. On his Monday morning 5DN show, Jeremy Cordeaux made inflammatory and totally unacceptable remarks about peace protesters. When speaking—

The Hon. T.G. Cameron: You mean you disagreed with him.

The Hon. SANDRA KANCK: I hope you will disagree with him too, the Hon. Mr Cameron. When speaking of the worldwide protest at the weekend, Cordeaux said:

> This 10 million who went to the streets on the weekend, the best thing they could possibly have is a large dose of anthrax.

Perhaps he was joking: if so, it was a joke in very poor taste. Intestinal anthrax is characterised by an acute inflammation of the intestinal tract. The initial signs of nausea, loss of appetite, vomiting and fever are followed by abdominal pain, vomiting of blood, severe diarrhoea and death in 25 per cent to 60 per cent of cases. Inhalation anthrax often resembles a common cold before severe breathing problems and shock combine to induce death in the victim. Australian troops in the Gulf have been inoculated against this very disease.

If Jeremy Cordeaux was not joking, his words are a very serious matter indeed. Had a Muslim uttered these words about Australians in another context, I am sure that Jeremy Cordeaux would lead the chorus of condemnation. One of the dangerous consequences of the Howard government's headlong rush to war is the divisive effect it is having upon Australia, and Jeremy Cordeaux has deepened those divisions.

To denigrate people for caring about the prospect of war, for expressing their democratic right and for challenging the federal government's dangerous foreign policy is an appalling abuse of the trust that is invested in our public commentators. I suggest that some of his listeners might like to try the more balanced approach to current affairs that can be found on the ABC or 5AA. I will certainly be writing to the Australian Broadcasting Tribunal to have Mr Cordeaux's comments scrutinised in light of the broadcasting act. Most importantly, I call upon Jeremy Cordeaux to apologise to the 100 000 South Australians and the million Australians who had the courage to march in the name of peace last weekend.

I will conclude by again talking about why we should not be involved in any war. On 20 October last year, in a *Background Briefing* program, Michael Hudson, who is an expert on Saudi Arabia, said:

> Arab governments are genuinely concerned that an American invasion of Iraq, especially if it gets bogged down, and if it gets messy and bloody, will lead to all kinds of domestic disturbances in many, many countries in the Arab world. It will certainly further envenom the popular attitudes towards the United States throughout the region and, I should think, in a general way, will probably incubate new disaffected young people that will be more inclined to join terrorist organisations of one sort or another. Even if they don't sort of explode initially after such an invasion, I think that many Arab governmental leaders fear that America will be sowing the seeds of new terrorist development for many years down the road. The head of the Arab League said that if Iraq is invaded, it would 'open the gates of hell'.

The reasons for invading Iraq are few and flimsy. The reasons for dissociating ourselves from the US are many. The people of Australia, and in particular the people of South Australia, spoke with their feet last weekend: 100 000 people, which was the highest ever turnout to a rally in South Australia, marched on Sunday to say, 'No war.' It is a message that the Australian government ignores at its peril.

The Hon. T.J. STEPHENS: I rise to speak on the issue of the disarmament of Iraq and the role Australia is playing and will play in meeting that end. Let me first say that I support wholeheartedly the Prime Minister's position on Iraq. Under Saddam Hussein's maniacal rule, Iraq has a long history of aggression, subterfuge and lack of regard for the international community. I will catalogue briefly the acts that have been perpetrated by Saddam Hussein, which are some of the most barbarous acts I have ever had the displeasure to be exposed to. I also want to detail the extent to which Saddam Hussein has not accounted for weapons that are known to be in his possession.

During his time as President, Saddam has launched a series of attacks against Kurds, Iranians, Kuwaitis and Israelis, and has attempted to assassinate a former United States president. Saddam has killed or kidnapped over 100 000 Kurds. He killed over 5 000 people in one attack in Halabja.

The Hon. Sandra Kanck: He didn't.

The Hon. T.J. STEPHENS: That is a point of difference between the Leader of the Democrats and me, and we will agree to disagree: 5 000 men, women and children were killed. It is truly a tragic circumstance when we consider that in the September 11 attacks 3 000 people were killed. We do not accept the loss of 3 000 Westerners, so why do the opponents of disarmament accept the loss of 5 000 Kurds?

Saddam invaded Iran—an Islamic country—and fought a war for eight years that resulted in horrendous casualties, and over 1 million people were killed. During this war, chemical weapons were frequently used by Iraqi forces. It is true that America provided some arms to both sides. However, under Jacques Chirac's prime ministership, France provided nuclear reactors to Iraq during that time, and Germany also has a record of providing weapons to Iraq.

In 1990, Saddam invaded Kuwait without provocation. During this conflict, he fired 39 Scud missiles at Israel, which was a non-combatant nation during the Gulf War. This undermines the claim by some that, by not getting involved, we will somehow not be a target. Many people were killed and, when Kuwait was liberated, over two dozen torture centres were found. Further, innocent civilians were used as human shields. Saddam used these torture centres, and others like it in Iraq proper, to brand people, to administer electric shocks to genitals and to eye gouge. Saddam has had people raped, given acid baths, had acid actually dripped onto people's skin, pierced their hands with electric drills, and pulled out fingernails and toenails. He has burned people with blowtorches and hot irons and, of course, ordered the execution of thousands of people, above those people who have died because of the wars he has started.

The Hon. T.G. Cameron: What about rape as a means of torture?

The Hon. T.J. STEPHENS: I did mention that Saddam has had people raped. If you think this is ancient history, in 1997 more than 3 000 people were killed in prison cleaning exercises. This was done because the Iraqi prisons were overcrowded and it is simply easier to kill the prisoners. Despite signing an agreement at the end of the Gulf War to catalogue and destroy all weapons of mass destruction that Iraq possessed at that time under United Nations' supervision, after 12 years of sanctions and occasional limited military strikes, he has refused to honestly account for the weapons that he holds. The weapons about which we are talking are not exactly insignificant, either. These weapons have the ability to pose a serious threat to neighbours and would be devastating in the hands of terrorists.

The Hon. Sandra Kanck interjecting:

The Hon. T.J. STEPHENS: The Leader of the Democrats says that he has no missile delivery systems. The honourable member has just made great play on anthrax—and he has been developing massive doses of anthrax. A coffee canister full of anthrax would destroy an Australian city. These weapons involve 6 500 chemical weapons, including:

- 550 shells of mustard gas;
- 360 tonnes of bulk chemical warfare agent;
- 1.5 tonnes of the deadly VX nerve agent;
- 3 000 tonnes of precursor chemicals, 300 tonnes of which can only be used for the making of VX—300 tonnes of chemicals have only one purpose, that is, to make VX.

Saddam has admitted to—

The Hon. T.G. Cameron: Is that to kill people with?

The Hon. T.J. STEPHENS: No, it is just because Saddam is a nice bloke! Saddam has admitted to manufacturing over 8 500 litres of anthrax, of which a single gram can represent millions of fatal doses. We only need to look back at what happened in the United States some months ago when anthrax was delivered by mail. Several people were killed. We know that there is not some hypothetical problem that we may have to face in the future. It is a reality that anthrax can be, and has been, used against the United States. It is a fact that Iraq possesses over 8 500 litres of it. Iraq must also account for the large quantities of growth media for biological weapons. Iraq must account for all its Scud B ballistic missiles, and it must explain why it has rebuilt all the facilities and equipment that it used to build this deadly arsenal.

To those who say that we need to give weapons inspectors more time, I say that that means you are giving Saddam more time: more time to think of ways to hide these weapons; more time to drive a wedge into the international community; and more time to avoid being held accountable for his crimes. If it comes to war—and I sincerely hope that it does not—then we must remember that there are many grounds on which this can be justified. Not only is Saddam in breach of 17 United Nations Security Council resolutions but he possesses weapons of mass destruction, which can be turned not only against our allies but also, in the hands of terrorists, against Australia.

Military action is the last resort to resolve this issue but, if it comes to that—and, the way that Saddam is going, it appears that military intervention may be necessary—we must give our soldiers a clear conscience. We must not allow our political views on this issue to cause our soldiers to be vilified by the community, as they were during the Vietnam War. We must remember that the armed forces act under the instructions of the government. I heard a report on the radio this morning that some soldiers interstate have been receiving abuse from the public, who have been calling them warmongers, and so on. If these soldiers have to go to war, that will be traumatic enough for them without the prospect of having to come home to be abused because they fought to defend Australia.

I strongly urge all members of this house and the community to remember that, whatever happens, it is done in the belief that it is in Australia's best interest. I strongly support the Prime Minister's position, because I believe that Saddam Hussein acts only when the sword of Damocles hangs over his head. Kofi Annan, the United Nations Secretary General, also agrees with this. Tony Blair, the Labour Prime Minister of Great Britain, also agrees and has sent forces to that region as part of the forward deployment.

It is interesting to note that the man whom the Premier and the federal opposition leader admire to a great extent has decided the best way for the international community to pressure Iraq is to forward deploy forces to the region—as we have. Generally, we hear no criticism of Tony Blair from either of these two Australian Labor Party leaders. Simon Crean has been extremely critical in attacking our own Prime Minister—which may be understandable in the robust political debate—but then he unleashes his rabid attack dog, Mark Latham, to belittle a foreign head of state, as in the President of the United States. When the stunt backfires on him, he says that, while the comments are unhelpful, people need to focus on the real issue.

The problem is that the ALP does not know what the real issue is. Its members cannot decide whether it is keeping the US alliance, disarming Iraq, saving the United Nations from irrelevance or saving Simon Crean from irrelevance. Simon Crean is better acknowledged for his attacks on Australia's government and the US administration than for his denunciation of Iraq, yet he refuses to criticise Tony Blair because he refuses to acknowledge that this issue is non-partisan. It is too important for that. If he did attack Blair, he would acknowledge that the Australian Labor Party's policy has acceptance only in the leader's office. Even his British Labour counterpart cannot defend the ALP's policy.

The federal government's policy is clear. The issue is that Iraq is in breach of many UN resolutions and possesses weapons of mass destruction. The government is committed to ensuring that Iraq is disarmed, and the decision as to whether military action is required will be made only after all other avenues for disarming Iraq have been exhausted.

The Hon. A.L. EVANS: Saddam Hussein is an evil dictator. Under his rule, hundreds of thousands—and some say millions—have lost their life. He has shown total disregard for even people of his own nation by using poison gas on the Kurds. Some four million refugees have fled the country because of his dictatorial and unjust rule. He will go to any ends to protect himself, as in the case of his two daughters who, with their husbands, sought asylum in Jordan. They were persuaded to return but, the moment they crossed back into Iraq, their husbands were executed.

Saddam Hussein is a man who, according to the UN experts, has not declared the fact that he has hidden a great deal of chemical and biological weaponry. However, due to the hard and aggressive war rhetoric of the US, he has finally agreed to allow inspectors in. The first indicators were resistance and a lack of cooperation but, with further threats of invasion, he has reluctantly and slowly begun to allow the inspectors to start fulfilling their mandate. Family First believes that this process should continue and that the inspectors should be allowed as much time as possible to investigate and thoroughly search Iraq for weapons of mass destruction, so that the nation is entirely disarmed. War should be only the last resort.

During this period, Saddam is under constant supervision. The inspectors are on the ground and, while they are there, Saddam cannot be producing weapons of mass destruction. It totally limits his involvement and assistance with the terrorists. Should Saddam show further resistance and take action, such as expelling the inspectors, or anything else that may hinder the United Nations from disarming him, we believe he should be removed by whatever possible means, including the use of force. The EU countries have recommended war if every other peace initiative is exhausted.

I know that Hon. Nick Xenophon believes that, of the many articles on this conflict and of the media reports and debates, none have resonated so much as the article that appeared in today's *Age* by Amos Oz, an Israeli author and commentator. The article by Mr Oz is headed, 'Why the US should not lift the lid on Iraq'. It is an appeal against unilateral action. It strengthens the argument that there needs to be further time for diplomacy and for the UN weapons inspectors and UN Security Council to do their work. It is worth quoting extensively from Amos Oz's opinion piece. He writes:

> America will make a mistake if it goes to war to conquer Iraq: extremist Islam can be stopped only by moderate Islams, and extremist Arab nationalism can be curbed only by moderate Arab nationalism.
>
> Saddam Hussein's despicable regime should be toppled from within by Iraqi forces—and America. Europe and moderate Arab states must all come to their aid. An America war against Iraq, even if it ends in victory, is liable to add fuel to the conflagration of the sense of affront, humiliation and hatred and desire for vengeance in extensive parts of the world. It threatens to arouse a wave of fanaticism with the power to undermine the very existence of moderate regimes in the Middle East and beyond.

The article continues:

> Moreover no-one—not even America's intelligence agencies—can predict what will spring from lifting the lid on Iraq. No-one can foresee the severity of the killings and destruction, the danger of the doomsday weapons or the validity of the fear that is battered and crumbling Iraq, and in other places as well, as five or 10 bin Ladens will emerge to take Saddam's place.

Mr Oz also makes this point:

> Many decent people of enlightened and pragmatic views oppose this war, even though they supported the war against Iraq after Iraq invaded Kuwait in August 1990.

Finally, Mr Oz concludes his opinion piece with these words:

> The present war campaign does not emanate from oil lust or colonist appetite. It emanates primarily from some simplistic rectitude that aspires to uproot evil by force. But the evil of Saddam's regime, like the evil of bin Laden, is deeply and extensively rooted in the vast expanse of poverty, despair and humiliation. Perhaps it is even more deeply rooted in the terrible raging envy that America has aroused for many years—not only in countries of the Third World, but also in broad boulevards of European society. It behoves one who is envied by all not to attempt to uproot that envy and hatred from the envious hearts by using only a big stick: after World War 2, the Marshall plan benefited America and world peace more than its old and new weapons put together.
>
> The big stick is necessary, but it is designed to deter or repulse aggression, not to set out to 'impose good'. And even when the big stick is brandished to repulse or defeat aggression as it occurs, it is crucial that it is brandished by the international community—or at least by a broad consensus of nations. Otherwise, it is liable to redouble the hatred, despair and lust for vengeance that it set out to defeat.

These views should be heeded before any nation embarks on a precipitous course towards war. I know that the Hon. Nick Xenophon would agree with the views I have presented to the chamber.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): As well as Nick Xenophon, I agree with the sentiments expressed in the contribution of the previous speaker. I agree entirely with the summation in relation to simplistic solutions to complex problems being the use of force rather than diplomacy and discussions. Some would argue that the discussions have gone on too long, but how long is too long when it comes not to the protection of despotic leaders but also the protection of innocent women, children and males in that country who do not want to be part of any of the despotic actions of their leaders and they have no say in the way in which those leaders formulate the policies they implement to suppress any democratic actions that the majority of their citizens might take?

I do not think we are talking here of the actions of a whole country but the actions of some leaders. The reason I marched on Sunday, along with my family and 100 000 others, apparently was not to protect the position of Saddam Hussein or any other despotic leader in the Middle East but to try to allow time for the inspectors and the United Nations to come up with a solution that fits the problem. We have a so-called solution born out of threat and force that will not be a solution at all but will project a continuance of the same problems we face now, and there will be a further outbreak of uncontrolled violence against civilians throughout those countries known as the willing participants.

Like other members I, too, find myself quoting organisations from the 1960s and 1970s. I am a bit of an old war horse when it comes to demonstrations and marches, and the march on Sunday reminded me of the 'ban the bomb' marches held in London over a long period of time in trying to outlaw and stop the spread of nuclear weapons. A lot of people marched and demonstrated but, unfortunately, nuclear weapons and the nuclear industry thrived. There were old and young people and people like me with pushers, and the climate was generally not one of violent demonstration but one of peaceful protest that hopefully our leaders might heed. The quote that I was going to use—and some of my colleagues will be very surprised when I do—is from the ASIO chief, who warns that war—

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. ROBERTS: Yes, it is amazing how things change. I refer to an article headed, 'ASIO chief warns war will spur bin Laden'. We were told, when the Afghanistan question was being answered with force, that if bin Laden was targeted and taken out the whole situation would change and there would be a new regime that would solve all the problems of the Afghanis. That has not happened: a new bomb and a new weapon of terror were developed that went deep into the caves of Afghanistan, but bin Laden escaped. Individuals do not create the circumstances for war.

The New Zealand Prime Minister put her finger on it when addressing a gathering of trade unionists in Melbourne yesterday. She posed some questions, with which I agree entirely, and I will quote from an article in the *Age* of 19 February, as follows:

> An attack on Iraq by a small group of countries could lead to an increase in terrorism, New Zealand's Prime Minister Helen Clark told a women's trade union conference in Melbourne yesterday. She said huge gaps had developed between countries and regions that had led to bitterness, frustration, envy and hate. 'My concern is that a war prosecuted against Iraq by a small group of nations will trigger a significant reaction and one of the forms of that reaction will be more terrorism,' she said.'We feel that the UN has a lot of work to do before going in with the use of force.'
>
> Ms Clark, the keynote speaker at the eighth World Women's Conference of the International Confederation of Free Trade Unions, said the international community was transfixed by the problem of terrorism. 'I believe that our security is now imperilled not because of any inevitable clash of civilisations—a theory I utterly reject—but rather because huge gaps have been allowed to develop between regions and nations, leading to bitterness, frustration, envy and hate,' she said. 'It has not helped that crises like that affecting Israel and Palestine have been left to fester for so long and have created a climate for extremism in the Middle East, directed at the West in general, which is held responsible for the stalemate.'
>
> Ms Clark called on Iraq to comply with UN demands. 'Iraq should not mistake the strong desire which governments like New Zealand have for a diplomatic outcome for tolerance of their failure to answer questions about their weapons programs,' she said. Ms Clark said a series of international summits had tried to tackle some of the fundamental problems but the crisis over Iraq was now so serious and polarising that it could jeopardise progress on promoting development and greater understanding between peoples and regions. She said the New Zealand government had sought to uphold the principles of multilateralism, the international rule of law and the authority of the Security Council throughout the crisis. Her government did not believe the use of force would be justified while weapons inspectors were still engaged in their work.
>
> Should there be a war in Iraq, my government fears, by the widespread resentment it would provoke in the Middle East against western nations, for the likely stimulus terrorist organisations would gain from the resentment and for the high human costs a war would have. All diplomatic means to contain Iraq have to be preferable to that.

All of us would agree, without getting into the debating arena of 'My baddie is better than your baddie,' or 'My baddie is worse than your baddie,' whichever way you want to take it, that that does not do anyone any good. I think the keynote to all of the answers to the difficulties that are faced by people in the Middle East, is that if there was not oil there there would not be any wars. If there were not complex religious differences there perhaps there would not be any confrontation between and within religious groups. That is a simplified argument put forward in a very complex situation. I think the Hon. Mr Evans put his finger on it when he said those differences within the religious groups and political groups have to be worked out by themselves within the confines of their own countries, using the assistance of others, peacemakers, mediators, when called upon. That is the role that we have developed with the United Nations over the last 50-odd years.

So I would argue that the UN still has a role to play, that the diplomatic time frames for disarmament do not have a one week, one day, time limit on them. It should take as long as it should take, because the ultimate price we will pay if we rush into a forceful ending to this situation will be that there will be high civilian casualties and there will be an escalation of the terror that we have seen implemented since September 11.

My contribution is not one of finger pointing at either the Blair government or the Bush government, or any other government. My argument is that the curtailment of groups, organisations, countries, coalitions of the willing, should be tempered by the contributions that the democratic forums of the UN can play, and they are the programs that we should be supporting. I understand that the latest count in the United Nations thus far for the contributions made on Resolution No. 2 is that Australia was one of the only supporters of the position of not to continue diplomacy but to go to war, one of the only such contributions made in the first 11 speeches, and I think there were only two out of the first 24 contributors. The other country that made a contribution supporting that proposition was Japan.

So, we do not have a lot of friends in pushing forward that proposal. France and Germany put forward their peace proposal I think far too late, but at least it was put on the table for discussion, and, of course, they have their own interests to protect as well. So I think there should be a lot more time to play out those peaceful resolutions or peaceful propositions that are being bandied about in the international arena.

The Hon. DIANA LAIDLAW: My brief comments tonight do not reflect the time that I have spent over months thinking through the issues of Iraq, the actions of Islamist extremists, the earlier war on terrorism, which seems to have faded into memory, and the nightmare that unfolded in New York, Washington and Pennsylvania on 11 September 2002. I think it is wrong in this context of war with Iraq to forget that our initial focus was terrorism and that it was not terrorism that just started on 11 September 2002 but terrorism that has been going on around the world but not acted on for at least a decade before that, whether that be in Sudan, the US Embassy attacks in Africa, on the *USS Cole*, or at the World Trade Centre back in 1993.

There are many who have commented that so much that we experience and are seeking to tackle today arises from an inability of the world to act back a decade ago. Those comments have come from people with experience in diplomacy, people with a background in terrorism, and people who have simply laughed at Clinton and the regime, because they sought to defy them, test them and they won, and they felt that they could go further and further, and they felt that the world would be traumatised and would fail to act because their threats of retaliation were threats that we believed and that we would fail to act to deal with the perpetration of terrorism that has simply increased in time.

I want to make a couple of comments in relation to the remarks made by the Hon. Sandra Kanck, and I respect the sincerity of her comments. I felt that they were rather confused. She seemed to be very opposed to the sanctions that the UN had authorised as a peaceful means to bring to heel Saddam Hussein. She equally seemed opposed to war, whether it was authorised by the UN or not, as the last resort action, with the possibility of acknowledging that not only had sanctions failed but also that Saddam Hussein had defied the weapon inspectors and the unity of view around the world that Iraq should disarm.

The only question that the world seems to be debating is how to get them to disarm and I think, for me, what has been so stunning in this whole debate since September 11 2002 is how a world opinion that agreed with America, and a world opinion that was united in a war of terrorism, has now turned America into the enemy. In terms of public relations battles, in terms of policy, it is quite extraordinary to see America now the focus of attention in the US and not Iraq, and not the terrorists themselves. In public relations terms and policy terms I think the Americans have handled this so extraordinarily badly.

I make that comment because what has been of interest to me since the collapse of the Cold War and the disintegration, which we all welcomed, of the Soviet Union, is not only the rise of Islamist extremists in a whole lot of states that the USSR had starved of education and health facilities and infrastructure, but we also see America unchallenged in many ways as supreme in the world but without the intellectual rigour and sophistication to deal with these new issues that the world now confronts. It is a great worry to me that America today right now in the United Nations is the focus of such division and debate, and we are taking our eyes off the real evil in the world, and that is Islamist terrorism, and the role that Saddam Hussein plays in Iraq and performs daily against his people.

Some 100 000 people gathered in Adelaide last Sunday to march for peace, and many more marched for the same cause worldwide. I was not one of them. Earlier I had been asked by the Hon. Sandra Kanck to join a group to launch MPs for Peace in South Australia. I declined. As I explained to the Hon. Sandra Kanck at the time (and I repeat tonight), I am not prepared to rule out any option, including the option of war, as a means of putting pressure on the government of Iraq. My preference is that that pressure be seen as real, that war be seen as a real option—not necessarily executed, but seen as a real option—because otherwise we would not today have Germany and France prepared to come forward with even a peace plan. They have come forward late, as the Hon. Terry Roberts has said. But I do not even think that they would have come forward today with an option. I certainly do not think that the inspectors would be in Iraq today or that they would have made the progress that they have made.

Certainly, my biggest disappointment is that, as the world debates the role of America, we take the pressure off the Muslim nations near and neighbouring Iraq to show leadership in this area and to get their close neighbour to see sense (if that is possible), to exert pressure on Iraq, to enforce the economic sanctions and to give support to those who would want to see democratic forces returned to Iraq—freedom of speech, freedom of assembly. They are the things which we love and cherish in this country, and which so many people exercised last Sunday—freedoms that are not enjoyed in Iraq. In fact, no-one in Iraq would dare to voice their views as strongly as the Hon. Sandra Kanck did tonight. She would have had her tongue cut out—she probably would have lost her life. She certainly would have been imprisoned, with no right of appeal, let alone a trial. I think that one has to be very careful about emotionalism in these sorts of issues and understand that some people are not as reasonable as we wish to think that we are in this country. And Saddam Hussein is one of them. He will go to any lengths—and he has—beyond what we would ever imagine possible.

It is true that there is some debate about certain gasses used against the Kurdish people. But the Kurdish people do not believe it: the Kurdish people believe that they were gassed by the Iraqis. In the meantime, too few people speak about the atrocities that Saddam Hussein has committed in the south of his nation against the Moors. They also would welcome some release from this dictator and some return to dignity and reunification with their families. Some four million people have left Iraq, families have been separated, they have been gassed, they have been maimed and they have been left ignorant and uneducated and without health care. Health care is going to Iraq through the United Nations: it is just that the government that presides there will not distribute that health care. That has been confirmed many times in reports through the BBC and people on site. The hospitals are there, they just cannot get the supplies: they are on the docks or they are left in Baghdad.

I was not necessarily surprised to see the headline in the *Advertiser* on the Monday following the march, 'Saddam gloats'. I think that, if I were such a villain as he is, I certainly would be gloating about what is happening in the world today, when the focus should be on him and yet it now has turned to America. It has been interesting to see the comments in the Iraqi press, as reported in the western papers—

'The world rises against American aggression and the arrogance of naked force,' said one paper. Another said, 'The world has said with one voice "No" to aggression on Iraq.' The government daily paper, in a commentary, indicated, 'These demonstrations expressed in their spirit, meaning and slogans the decisive Iraqi victory and the defeat and isolation of America.'

I have little regard for the role that the French and the Germans have played in dealing with this issue of terror over the past decade, and particularly since September 11. It reminded me very much of the appeasement approach and the naivety that the French showed before the First World War, and particularly before the Second World War. I think that they are playing out the same policy agenda now, and it simply plays into the hands of brutal dictators such as Saddam Hussein. He enjoys a situation of divide and rule. It is the game that he is playing now, and we have to be very careful that we do not give him more pleasure and more time simply because we are not prepared to show the will to act. We have not shown the will over the past decade, and now we deal with a situation that we think is too hard to handle.

I am strongly of the belief that the United Nations must lead the way here. There is a real danger that the United Nations will become irrelevant—and I hope that that is not the case. If it passes resolutions, it must know how it will enforce those resolutions, and it has to earn respect. The UN may well decide that it wants more time for the inspectors to work. But what is the time frame? Some 10 years, 12 years, have already passed. Is the time frame another two months? And if the inspectors are still not satisfied and there is material evidence that Iraq is not complying, are they prepared to go to war then? Are they prepared to take some other measure? Are the Muslim nations around the world prepared to come together and support the people inside and outside of Iraq with civil disobedience and, hopefully, help in the overthrow of this totalitarian regime? I think the world needs to figure out if it wants more time and, when that time is up, what it will do then.

Finally, when the world has resolved that issue, I hope it will turn its attention to the issues of poverty and ignorance, because that is the climate in which Islamic fundamentalism thrives—where the proponents of those beliefs exploit those situations. In a world post the Cold War, we have to deal with the villain in hot spots, not necessarily in a nation as big as the Soviet Union. We must become more sophisticated in the way in which we deal with trouble.

In dealing with that trouble we must be resolute in the resolutions we take, not simply pass a resolution, waffle around and not be prepared to exercise it, because in that environment not only do extremism, totalitarianism and brutalism reign but we in fact encourage and perpetuate them. I wish to see the United Nations lead in this matter, but I also think that there must be a situation whereby, following sanctions and various resolutions, it must find the courage to know how it will seek the implementation of those resolutions. That may mean war.

I do not want to see Australians go to war. I do not want to see them die. I do not want to see them maimed. Nor do I down under, in the comfort of Australia, believe that I should isolate myself in a globalised world from the horrors that are perpetuated from time to time around the world. The United Nations must take a stand and must know how it will follow through with that stand.

The Hon. IAN GILFILLAN: This is not our war. It is not Australia's war. I do not feel any endorsement for a war in any case, but from my point of view it is not our war. There is no justification for Australia to lock arms with the US in whatever aggression it takes against Iraq. The only clue that may shed some light on it was in the *Australian* on Monday in an article by Robert Gottliebsen, who is certainly not a radical agitator and who is making an objective assessment. He states:

> For the first time in half a century Australia stands to gain a potential economic benefit after participating alongside the US in a war.

He goes on in quite a lengthy article to point out just how that will happen. I believe that the Howard government has an unhealthy liaison with the Bush American regime and is not at this stage competent at making an independent judgment in the best interests of Australia. If the highfalutin causes that have been put forward as the reason for aggression in Iraq were consistently taken worldwide over a period of time, we would have been at war with several nations in South Africa and the African continent and on the South American continent. We would have attacked China. Why did we not go to war when China invaded Tibet and it created weapons of mass destruction and still has them?

North Korea is far more loaded with lethal weaponry in order of magnitude than Iraq, but it has no oil. And there is absolutely no reason on the basis of logic, emotion and the jingoistic patriotism that has been trumpeted forth that we should pick Iraq as the only nation. There is no connection between Iraq and the terrorist attack in Bali. In fact, even with the closest scrutiny, there has not yet been found any viable link, other than bin Laden using the propaganda, between Hussein and bin Laden. They do not like each other. They have different philosophies. They do not even share the same political/religious beliefs.

I find it very uncomfortable as an Australian being pushed along in the barrow driven by the Americans in positing that this is a humane move for the benefit of the people of the world. And I have little sympathy with the cant that says, 'We would rather the United Nations leads this action, that the United Nations comes to its senses and actually will lock step with the Americans.' If we believe in the United Nations being the arbitrary body that makes the decision, let it make it, and not hold this option that, if it does not do as we want it to do, we are going to do what we want to do anyway. And Australia, through John Howard's statements, has locked itself virtually into that position.

The half million plus who demonstrated in Australia against the war have persuaded Howard now to temper his pronouncements to the effect that, yes, they will be awaiting the United Nations. There is more sort of humbug about paying lip service to the United Nations. I just hope that it is more than lip service, because I do not want history to portray Australia as being in cahoots with a regime that was described in terms that I will quote from *Adelaide Voices* which, in its last edition, has seen fit to include an article by John Le Carre. Many members will have read his novels. He has been an internationally renowned best seller and he has a piece in this paper that I will share with the chamber, as follows:

> America has entered one of its periods of historical madness but this is the worst I can remember; worse than McCarthyism, worse than the Bay of Pigs and in the long term potentially more disastrous than the Vietnam War. As in McCarthy's time, the freedoms that have made America the envy of the world are being systematically eroded.

If we are fighting for the freedoms, if we believe that we are going to reinstate freedoms back in Iraq, that, according to Le Carre, is at the cost of freedoms in America. He continues:

> The combination of compliant US media and vested corporate interests is once more ensuring that a debate that should be ringing out in every town square is confined to the loftier columns of the East Coast press. The imminent war on Iraq was planned years before bin Laden struck, but it was he who made it possible. Without bin Laden, the Bush junta would still be trying to explain such tricky matters as how it came to be elected in the first place, Enron, its shameless favouring of the already-too-rich, its reckless disregard for the world's poor, the ecology, and a raft of unilaterally abrogated international treaties.

We talk about people who do not comply with United Nations requirements. The United States stands guilty on many counts itself. The article continues:

> How Bush and his junta succeeded in deflecting America's anger from bin Laden to Saddam Hussein is one of the great public relations conjuring tricks of history. But the American public is not merely being misled. It is being browbeaten and kept in a state of ignorance and fear. The carefully orchestrated neurosis should carry Bush and his fellow conspirators nicely into the next election. The religious cant that will send American troops into battle is perhaps the most sickening aspect of this surreal war-to-be. Bush has an arm-lock on God. And God has very particular political opinions. God appointed America to save the world in any way that suits America.

A fairly interesting faith to which I do not subscribe. I continue:

> To be a member of the team you must also believe in Absolute Good and Absolute Evil, and Bush, with a lot of help from his friends, family and God, is there to tell us which is which. What Bush won't tell us is the truth about why we're going to war. What is at stake is not an Axis of Evil, but oil, money and people's lives. Hussein's misfortune is to sit on the second biggest oilfield in the world. Bush wants it, and who helps him get it will receive a piece of the cake. And who doesn't, won't. If Hussein didn't have the oil, he could torture his citizens to his heart's content. Other leaders do it every day—think Saudi Arabia, think Pakistan, think Turkey, think Syria, think Egypt.

Torture is going on there, and they are the people the US is courting to be friends in its attack on what it portrays as the arch-evil in the world, Iraq. Le Carre continues:

> Baghdad represents no clear and present danger to its neighbours, and none to the US or Britain. Hussein's weapons of mass destruction, if he still has them, will be peanuts by comparison with the stuff Israel or America could hurl at him at five minutes' notice. What is at stake is not an imminent military or terrorist threat, but the economic imperative of US growth. What is at stake is America's need to demonstrate its military power to all of us—to Europe and Russia and China, and poor, mad little North Korea, as well as the Middle East; to show who rules America at home, and who is to be ruled by America abroad.

It is a sad reflection on the group that actually is running America today. It is certainly not a view held universally across America. There are millions of Americans who reject this approach. I believe that for Australia even to contemplate being part of this war in Iraq is immoral for us, and I would shun our people, our armed forces, being involved in perpetrating what I believe to be a serious mistake by the Howard government.

The Hon. CARMEL ZOLLO: Given some of the media comments today, I place on record my strong support for the members of the Australian Defence Force who make up our contingent. I know that we are all totally supportive of the troops and their families. I am more than old enough to remember the lack of support for our troops in Vietnam. I would not wish the same treatment on another group of Australians. The debate today is not about members of our armed forces.

An article in last weekend's *Sunday Mail* by Ron List of the Vietnam Veterans Federation was a timely reminder of the pain inflicted on that group of people. His words, 'All my mother wanted was her son back,' were very poignant, bringing war down to basics on an individual level.

I also place on record that, whilst I understand the importance of the Australian-US alliance, I am disappointed that Australia has deployed troops to the Middle East prior to any resolution by the United Nations. The US does not appear to believe that a resolution of the UN against Iraq is necessary. Constituencies of both the other nations involved—Britain and Australia—have been outwardly vocal in their view that it should be required. Given the population of Australia, our troop commitment is very significant. In 1991, along with other countries, Australia supported the US in the Gulf War. At that time, we sent only one third of the current deployment that has left for the Middle East.

We know that all members of the Security Council want the disarmament of Iraq, but the majority believes that the UN should be the arbitrator. That view should be respected. Chemical and biological warfare is the greatest nightmare imaginable. The UN must be the means by which we deal with Iraq.

As has been said this evening, the politics of the Middle East are highly volatile, combining extreme fundamentalist religion, ownership of great natural resources, strategic positions, political despots and criminals with weapons of mass destruction, but the region has populations of innocent people. Iraqis, in particular, have suffered for many years, but the whole region is volatile.

Last year, the headmaster of St Ignatius College Senior School discussed some refugee students with me whom the college had taken in from our detention centre, students they had voluntarily decided to take into their school. I was not able to help, but the school has my moral support. I admire the St Ignatius school community for its commitment to these students, a commitment that exists regardless of whether any government funding is forthcoming. Recently, the media has highlighted the school's attempt to persuade public opinion in favour of two of the students who are expected to be sent back, because of their age, to another war-torn country in that region—Afghanistan. I hope that a decision will be made in their favour. When we put a human face to the so-called 'enemy', it puts things into perspective.

For several years, I was an honorary member of the Board of Management of Diversity Directors, a federal government funded peak childcare body. Just before the events surrounding the *Tampa* became such a huge political issue, with all the subsequent drama, a decision had been made to allow women and children from the Woomera Detention Centre to be placed in the community; no doubt, many were from Iraq. Some in our community may hold differing views on the way in which adults have entered our country, but those asylum seekers included innocent children. My party and many others have been scathing about the incarceration of women and children.

It is important that all countries get behind the United Nations process of a resolution and the peaceful disarmament of Iraq. It is the only way we can hope to stop the killing of thousands of innocent people. The UN must be left to perform its task, otherwise it will become irrelevant. I would like to see a peaceful outcome, as everyone would, in relation to the disarmament of Iraq, because war must always be the last resort.

The Hon. G.E. GAGO: I open my contribution to the debate this evening by saying that I and my colleagues support the UN's attempts to disarm Iraq. It is to be commended for its vigilance and persistence. From the outset, I make it unmistakably clear that I do not support any unilateral decision to attack Iraq. We must be steadfast in our commitment to a UN resolution and a peaceful disarmament of Iraq's weapons of mass destruction. The UN provides us with the greatest chance and the most effective means whereby we can achieve the peaceful disarmament of Iraq.

The UN has a history of diplomatic success. Amongst some of its most persuasive achievements is the development of international law that plays an essential role in the maintenance of international peace, security and stability. Since its creation in 1945, the UN has often been required to prevent international disputes from escalating into war. The source of the UN's authority continues to lie in the mutual cooperation of its member states. The UN Security Council, in particular, has a proven track record of persuading opposing parties to reach a diplomatic solution rather than proceed with armed conflict.

What are the prospects for disarmament? For the pessimists, there are several significant examples of disarmament from the recent past, including South Africa and the Ukraine. For example, in South Africa, President de Klerk decided to end his country's nuclear weapons program in 1989. South Africa joined the Nuclear Non Proliferation Treaty in 1991 and later that year accepted full safeguards by the UN's atomic energy agency. In 1999, it decided to dismantle all existing weapons.

Whilst each of the countries I have mentioned, and others that I have not, presented a different case, the end result was the same: they all disarmed, while disclosing their programs fully and voluntarily. With the full cooperation of those governments with the UN, implementation of disarmament was smooth. Not only do these examples set a precedent but they are evidence of the ability of the UN to successfully implement and aid programs of peaceful disarmament.

In Iraq's case, the UN Security Council's resolution 1441 gave Saddam Hussein the opportunity to disarm in the early 1990s. Since he agreed to resolution 1441 it has been evident that Hussein has subsequently chosen to ignore that resolution. This begs the question: why the sudden focus on Iraq now?

While there is no doubt that Saddam Hussein is a vicious dictator, there is little evidence to suggest that he has recently behaved any differently from the way in which he has governed since the end of the Gulf War in the early 1990s. After 12 years of standing by, why is time suddenly up for the current Iraqi regime? How imperative is it that we must disarm Hussein by means of war, when the West has left him pretty much alone for the past 12 years? Why the hurry now? What has changed?

Unfortunately, the world has a history of a number of vicious and oppressive regimes which have violated UN standards on human rights. Why is it that Saddam Hussein's regime has suddenly become the target that requires UN-unauthorised war? In fact, many UN decisions continue today to be violated by a number of different countries. Today, many countries are violating standards relating to human rights, and they are doing so in quite despicable ways, yet few would consider a declaration of war to be an appropriate way to deal with these violations.

There are far too many questions without adequate answers. We must consider carefully not only the monetary cost of waging war against Iraq, which alone would be exorbitant, but also the enormous human cost—the loss of life, safety and security; the resulting poverty; and the production of hundreds of thousands of refugees.

Since September 11, terrorism has become part of the real-life experience of many people around the world. My worry is that there has been a shift of focus from the direct terrorist attack on the US to the need for Iraq to be disarmed using war instigated by a unilateral decision. There has been that sudden shift.

Deflection of attention and blame from al-Qaeda to Saddam Hussein is, indeed, a great concern to me—and it should be to other members as well. The problem is that since September 11, two very separate issues have become, as many believe, deliberately intertwined. The link between the Iraqi and terrorist networks has been used as an excuse to draw the problem of an armed Iraq to the fore. The connection between terrorist networks and states that possess weapons of mass terror and destruction is indeed a ghastly proposition but, as yet, and despite the United States' best effort, we have no solid evidence to support claims that a link exists between Iraqi arms, September 11 or, for that matter, the Bali event.

I have grave concerns about the loose connections between bin Laden and the Iraqi regime. Many highly respected analysts agree that this is a very tenuous link. There has been no hard evidence to date that proves connection between al-Qaeda and Saddam Hussein in relation to September 11. While it is easy to draw shady connections between organisations and countries, such links should not be used as a reason to go to war. Indeed, links can be, and have been, made between the US and its support for a number of spurious groups. This is especially so with groups in Afghanistan and their conflict with the Russians.

We must be sensible about this, take a reasoned approach and be clear about our position. We must be very clear about the issues that threaten international liberties. All threats to international stability cannot simply be reduced to the same source—expedient though that might be for some. We are well aware that Saddam Hussein's vicious regime is a terrible problem for us all. The bin Laden funded terrorist attacks carried out by the al-Qaeda terrorist network are a serious threat to international peace and stability, but it is a mistake to muddy the distinction between the two. It is imperative that we are certain about our facts before we rush into a war without a clear understanding of what we are fighting, on what fronts we are to direct our efforts and, of course, the all important question, why?

In order to effectively deal with both issues, we must join with the UN and recognise that Saddam Hussein and bin Laden pose very different threats. I do not believe that declaring war on Iraq and getting rid of Saddam Hussein will solve the problem of bin Laden and his ensuing campaign of terror. We must continue to strengthen and bolster the UN led approach for a peaceful disarmament of Iraq. I do not believe there is any evidence to warrant that the current problems in Baghdad pose such an imminent threat—and I stress 'imminent threat'—to our security that we can afford to bypass UN endorsement. Indeed, I cannot help but wonder how Saddam Hussein's weapons of mass destruction might compare with those that America probably has in store for Baghdad. One cannot help but note that the only country which has made a threat of war, that is, a threat of attack, is in fact the United States.

In terms of the current international climate of instability, a number of other questions concerning North Korea trouble me. Why is it a much more important and immediate short-term goal to disarm Iraq rather than North Korea? Why is that so, especially when we know that North Korea also has a very sophisticated arsenal. Why is supporting and promoting freedom in Iraq more important than promoting freedom in North Korea, especially when we know that the administration in North Korea has a capacity for cruelty? In sum, what is it that makes Iraq such a threat that it needs to take precedence over all other international threats, offences and instabilities in the form of a unilateral decision for war? These unanswered questions disturb me greatly.

The lack of hard facts worries me in a climate where our current government appears to be heading towards a war without fully addressing these concerns. In fact, Howard's quick march towards war and the lack of consultation with parliament before his predeployment of troops can only add to the insecurity, mistrust and angst of the Australian people. At a time when the role of government should be about guaranteeing stability and security, John Howard appears to be intent on achieving the exact opposite. The federal government has stopped listening to the wishes of the Australian people. This was evident last weekend when hundreds of thousands of Australians, including many traditional Liberal voters, I noted, turned out to the march in capital cities to protest against plans to commit to a war with Iraq against United Nations authority.

In conclusion, terrorism is indeed a despicable thing. We must not confuse terrorism with Saddam Hussein's oppressive regime and his programs of weapons of mass destruction. To do so will only cloud the issue of Iraq and the need for its disarmament; and to do so will only serve to fragment any united resolve of UN member nations to solve this international problem. We must be very clear about the principles that might take us down a path to war. We must be very sure that it is worth the sacrifice. We must be very clear about what we as part of an international community find acceptable and what we do not.

There is no doubt that disarmament has to be achieved, but the path to disarmament is certainly not through a unilateral decision to go to war. We need to secure peace, but this will happen only if we get behind the United Nations. It is important that Australia understands the gravity of any decision to go to war and supports the United Nations' approach to peaceful resolution of this crisis. It is important that the UN takes whatever time it deems necessary to achieve this. The best way to avoid a full scale war is to persist with the united, international approach, and I wholeheartedly support the peaceful disarmament of Iraq through the United Nations process.

The Hon. J.S.L. DAWKINS: I rise to speak briefly on this matter this evening. In so doing, I echo and endorse the comments of my colleagues, the Hons Terry Stephens and Diana Laidlaw. I indicate my strong support for the Prime Minister. I also indicate the strong support for the Prime Minister of many other Australians—many people who are realistic about the international situation and the way in which the situation in Iraq has developed, particularly in the last 11 or 12 years. The right decision is rarely easy and not always popular with the majority of the people, particularly with vocal minorities. The Prime Minister of Australia in the past seven years has shown strong leadership at times when it has not always been popular. He showed that leadership after the Port Arthur massacre in relation to gun control; he showed it in relation to tax reform; he showed it in relation to the action that was needed in East Timor; he has shown it in relation to the illegal immigrants coming into this country; and I believe he has shown it in relation to the situation in Iraq.

I also indicate my strong support for the Hon. Alexander Downer, who I believe is an exemplary foreign affairs minister. I was lucky enough to be working for Mr Downer in January 1995 when he became the foreign affairs spokesman for the coalition in opposition. At that stage, he had one assistant to help him with all foreign affairs matters. Even though I was working as an electorate officer, I had the unenviable duty of trying to help him in relation to the countries that were part of the former Soviet Union, which had just broken up and which the Hon. Diana Laidlaw spoke about earlier. I believe that, coming from that base, Mr Downer has become a very good foreign minister for this country. He also has shown strong leadership on these important international issues. I want to mention the United Nations. I believe that a strong United Nations is something that this planet desires and needs, but I must say that the future of the United Nations is in question while people such as Saddam Hussein continue to thumb their noses at that organisation.

In conclusion, I will quote from a letter in today's *Advertiser*. We have had a lot of quoting tonight and some has been from respected columnists, authors and a whole range of people—I do not know that too many were from South Australians. I will quote from Mr Darryl Callaghan of Whyalla Playford. Mr Callaghan says in his letter:

> When did 100 000 people represent a majority when we have a population of 1.5 million in South Australia? Most people in South Australia do not support a war without UN sanction. The scales tip dramatically the other way with UN sanction, so really we are not opposed to war with Iraq en masse—we are opposed without UN sanctions. If one listens to the Prime Minister and other world leaders, this is exactly what they are trying to achieve, to prove Iraq is not complying with UN resolution 1441, therefore clearing the way for the US and her allies to use force to achieve what should be a priority for the whole world. The US is applying pressure so the UN does the right thing and does not condemn itself to history as a joke organisation that can't back up its own resolutions.

The Hon. R.K. SNEATH: I pick up one of the comments made by the Hon. John Dawkins: if those who support a war marched tomorrow, how many would we get there? Would we get one 100 000? I doubt it.

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

The Hon. R.K. SNEATH: No, I think I got the point—I do not think you would get 100 000 marching tomorrow in favour of a war if we had such a march. I strongly support UN resolution 1441, which requires Iraq to disarm. It is like coming out of a caucus meeting after you have been defeated and going against your caucus.

In these issues the UN is the umpire and the umpire has made a decision and some do not want to abide by it, just as in caucus some people do not want to abide by the decision. I support weapons inspectors continuing their work for as long as they and the United Nations believe they can continue to make progress.

The Hon. J.S.L. Dawkins: How long?

The Hon. R.K. SNEATH: How long is a piece of string?

The Hon. J.S.L. Dawkins: How long do you want?

The Hon. R.K. SNEATH: How long do you want before you start a war? When do you start wars? It is not that easy. It may be easy for some people to push a button and have a

war. I support the resolution, and I said it should continue as long as they and the United Nations believe they can make progress.

I was very disappointed to hear on the radio this morning that some of our armed forces still in Australia and walking around in uniform are being abused. I strongly support and defend our men and women who make up the Australian defence force. I consider them heroes, whether in peace time or war. They are there to defend us and to take orders from their superiors and from the government.

I want to touch on something not too many have touched on yet, namely, the people and children of the country we are talking about attacking. They have been under sanctions for a long time and have been continually bombed since 1991, anyway. A UNICEP report blames the sanctions directly for excess deaths of approximately 500 000 children under the age of five years and nearly one million Iraqis in that time. The greatest killer of young children in Iraq is dehydration from diarrhoea, caused by water-borne illnesses that are amplified by the destruction of water treatment and sanitation facilities. Most of that has been caused by the United States. Around 4 000 children die every month from starvation and preventable disease in Iraq—a six fold increase since sanctions were imposed. That is an enormous amount. Somebody spoke today about the minister not sleeping because he offered generous redundancies to fishers. None of us should be sleeping while 4 000 children a month anywhere in the world are dying of starvation and preventable diseases.

The situation was so bad over there that Dennis Halliday, a former humanitarian and a coordinator for the UN in Iraq, took the dramatic step of resigning his position because of it and said, when he resigned, 'We are in the process of destroying an entire society'. Not only that, his predecessor also resigned and was absolutely disgusted by the effect that the sanctions were having on the children of that country. Most of us have families and have had children and hate to see them suffering cuts and bruises, let alone dying before the age of five years.

I value our friendship with the United States and always have, and I value our friendship with many other countries around the world. However, in any friendship you must allow for disagreements. Friendships will withstand disagreements, and this is one occasion where we should be disagreeing strongly with the United States. I am convinced that most Australians do disagree—not with the American people, as many of them also disagree—with the American leadership. We all recognise Saddam Hussein as a low life—there is no doubt about that. He is a terrible person and there is no way that such a person should be in charge of a country. Unfortunately, there are a number of Saddam Hussein's in the world, and that is something I hope the UN looks at strongly in the future so that through a combined agreement we can do something about them.

I believe in the fundamental values of democracy and the protection of the most powerless amongst us from the whims of the most powerful. I believe in the ideals of the United Nations as a forum for solving international conflicts non-violently. I hope that peace will be with all of us.

The Hon. J. GAZZOLA: Pronouncements by the Prime Minister, while more measured than the foreign minister's announcements, were and still are not meeting the requirements of openness or comprehensiveness commensurate with the importance of this issue. The Prime Minister has publicly expressed the view that, while war would be regrettable, its reality is inevitable. We would be forgiven for questioning the Prime Minister for he is a dab hand at exploiting fear and half truths for political gain. In his and the government's defence he has provided what he claims is near concrete confirmation, citing evidence from President Bush's address to the UN General Assembly as well as linking further justification for action to the US Secretary of State, Colin Powell's, so-called 'Stevenson moment'. But is this enough?

There is understandable concern as to whether the cited evidence constitutes enough proof to clear what the Leader of the Opposition in the House of Representatives likened to the evidentiary bar. Of equal concern is the threat by the US to undertake unilateral action—not for the first time—but one which further questions and erodes the authority of the United Nations.

The public is now voicing its concerns, as evidenced in the remarkable events of the last few days, when we witnessed unprecedented levels of public protest throughout the world. Some 89 per cent of people in Britain, according to a survey published by the *Sunday Telegraph*, would oppose war if it was not sanctioned by the UN. The figure for Australia in this regard was around 70 per cent. An article published in the *Advertiser* on the battle for public opinion stated that only 19 and 27 per cent in France and the United States, respectively, would support a UN sanctioned war. The same *Advertiser* report noted that Prime Minister Blair cannot even convince a majority of his own party officials that war without UN approval should go ahead. We also know of the position adopted by the French and German governments.

The press, too, is now much more carefully, thankfully, examining the issue in light of closer scrutiny by the public, government and opposition groups. The propaganda battle has seen some embarrassing moments for the proponents of war. An online news report from the British newspaper *The Observer* ran the story on the Blair intelligence report to the House of Commons, where his dossier on 'an infrastructure of deception and concealment' turned out to be a cut and paste job engineered from a post-graduate thesis on the Kuwait conflict some 13 years prior. This report, the paper notes in another article, was cobbled together by a British government official, a paper which the US Secretary of State subsequently referred to as, so the article reports, 'a fine paper'.

Even Hans Blix in his last report to the UN dismissed key elements of Colin Powell's presentation of US evidence. There are other questioning and disturbing reports, and I mention only a few. In an article in the 9 January *Guardian Weekly* the British Foreign Secretary listed energy sources as a key priority in British foreign policy. Privately, according to the paper's sources, British government ministers and officials are saying that oil is more important than concerns about the issue of Iraq's mooted weapons of mass destruction.

Then there are the questions of the supposed link between al-Qaeda and Iraq, Iraq's possible response to impending defeat and the consequent social and environmental destruction, and the post war reconstruction of Iraq, which, according to *The Observer*, would have enormous repercussions and costs. The latter is estimated by the US Congressional Budget office at between $US17 billion and $US46 billion for the peacekeeping force alone, let alone the refugee problem, some 1.5 million in the last conflict, and aid agencies warning of a humanitarian catastrophe, and the cost in innocent lives and injured.

We are all aware of the debate and counter-debate, but it seems that much more certainty should be required. There are many concerns about what I see as the Howard government's pragmatic approach to this issue. We need to be sure that we fully understand the causes of terrible events such as September 11 and to comprehensively debate possible responses to clarify our motives and reasons. We are right to feel repugnance at the death of innocent people and to fulfil rightful obligations on behalf of those countries who seek our moral and practical assistance and to address our security concerns. But we also need to define the limits of our assistance. We must avoid future Vietnams in the defining of our identity and responsibilities.

We need to more carefully assess the evidence and the measure and appropriateness of our response. We must countenance all other possibilities to war and not slavishly follow the ideology and policy of a few powerful friends. Equally importantly, we must understand and genuinely address the causes of terrorism and international conflict. We must define, in an independent manner, a foreign policy and we must abide by the dictates of the international arbiter, the United Nations Security Council.

The Howard government has yet to establish a case beyond doubt for unsanctioned action in Iraq. It has moved from unfettered pragmatic support for US action to conditional support for UN intervention. Comments by the Prime Minister advising the world community 'not to take its eye off the ball' are neither comforting nor instructive and compel us to the view that in the eyes of other countries we have no independent commitment to debate or principled position to support.

The government has committed to our ally, yet the international community voices unrest over US unilateral action, and the Australian public has overwhelmingly disendorsed engagement without UN sanction. The Howard government trots out Iraq's misdemeanours to support its position while it waits to ride the Bush administration wave to shore up international support with its unilateral threat to the UN. Little wonder, then, that critics have labelled the Howard response as lap-dog. The need for debate was acknowledged by the Prime Minister at the National Press Club, where he said that, 'governments have an obligation to explain and defend everything we do'. Has the Howard government achieved this to our satisfaction? According to many, including past defence chiefs, the answer is no.

This is not to deny that we are confronting a real and dangerous concern but we must be sure that we do not surrender principled substance for pragmatic style in any debate. Unfortunately, not enough has appeared to allay these concerns. Sensible and reasoned debate should not be hijacked or ignored. Vice President Cheney reiterates the call for rapid action. The ex-assistant to US Defence Secretary Donald Rumsfeld, Kenneth Adelman, trumpets the romantic heroism of the US 'going it alone'. These are not isolated views and they reflect the opinion of many in the US administration who see a unilateral plan for action as the coercive means to ally nervous nations to US interests, with or without UN approval.

As Robert Kagan, a senior associate at the Carnegie Endowment for International Pease, discussed in an article in the *Washington Post*, there is no authentic claim for any profound differences between multilateralists and unilateralists in the US administration in regard to the need for UN approval. The US would prefer to act with the support of others, but it is prepared to go it alone.

The Howard government must act with care and principle if we are to be seen as genuine and credible. We need not only to accurately ascertain the threat so that the possible eventual cost to all, not just Australians, in human and economic terms is justified, but also to honestly address the root causes of terrorism and conflict, even if that means differing with the views of those powerful friends. The seriousness of the issue requires that we get it right in both substance and process, points clearly and forcibly made by many of our elder statesmen.

The Hon. R.I. LUCAS (Leader of the Opposition): I congratulate other members for the general nature of the debate that we have had this evening. By and large it has been conducted as you, Mr President, requested early in the debate, and I congratulate members for their part in the debate. At the outset I want to acknowledge that the large numbers of people who turned out in Australia, and in particular in Adelaide, on Sunday were not, as some might have done in the past, able to be dismissed as the usual rent-a-crowd that turns out to peace march protests. I acknowledge that there was an extraordinarily wide cross-section of South Australians represented at that rally. They crossed all political divides—Liberal, Labor, Democrat, Greens, and others. They crossed all age divides—the young, and particularly strongly represented through school children, through to the elderly. Many friends and acquaintances of my own who are strong Liberal supporters, indeed some who are not strong Liberal supporters, participated, for their own reasons, in the march, and nothing that I seek to say this evening in any way would seek to reflect on their genuinely held views.

The concern I have and always have had is that in amongst that cross-section of South Australians was a small group of South Australians who, in my judgment, have a poisoned anti American attitude, and, sadly, we saw it on Sunday from a minority, and, sadly, I would say that we have seen a little bit of it here this evening. The approach this evening from the leader of the Australian Democrats, Hon. Sandra Kanck, at least in part I think reflected that.

I was surprised—I think late last year or early this year—when the former leader of the Australian Democrats publicly stated that the Americans (and I presume the CIA) were responsible for the leadership tensions and disharmony within the federal Australian Democrats. I think that is an indication of the attitude of some within the Australian Democrats to Americans—and I presume, in particular, to the CIA. I think that people in the CIA probably have more important things on their mind than worrying about whether or not Senator Stott Despoja was going to be the leader of the Australian Democrats or, indeed, whether senators Bartlett, Murray or, indeed, anyone else might want to be the leader of the Australian Democrats.

My position is that the United States is an ally. It is not perfect: it has made mistakes. It does not always confess, or own up to its mistakes, as indeed, perhaps, many of us do not own up or confess to our mistakes—although as a world power, of course, its mistakes potentially have much greater significance than the mistakes that each of us individually might make as members of parliament. But what I do reject is this demonisation of the Americans and of President Bush, and this notion of a small group of people that the Americans—and President Bush, in particular—are devils incarnate and that they are motivated only by a lust for power, a lust for war and a lust for oil and that those are the reasons for their actions. As some in this chamber will know, my view is

probably similar to virtually all others, I suspect—not that everyone has spoken. I do not want to see war. If I were asked whether I want peace, I would say, 'Of course I want peace.' Why did I not march on the weekend? Because it may well have been construed by the media and others as being opposed to our Prime Minister and our country at this difficult time.

I hope, as I suspect do most others, that we can resolve this through a United Nations resolution. But my position, at least in part, is similar to that of the Hon. Diana Laidlaw (and I congratulate, as did my colleague the Hon. Mr Dawkins, the Hon. Diana Laidlaw) in that, whatever progress has been made in recent times in relation to Iraq, it has been under the pressure and the threat of action ultimately being taken by America and its allies. As with Kosovo, there may well be rare occasions in our experience where action might need to be taken by the world community without United Nations endorsement. I think that those who continue to maintain the position that absolutely no action can be taken without UN endorsement need to address what occurred in relation to Kosovo, where the threatened veto of one nation, even though there may well have been a unanimous view, with the exception of the vetoing country, for action to be taken, that the particular voting strictures of the United Nations would have meant that that was therefore not sanctioned or supported by the United Nations. My position is that of course I want to see something that is supported by the United Nations but that, ultimately, in the end—whenever the end comes—there may well have to be a decision by the world community, sad as it might be, similar to Kosovo, where action needs to be taken.

It is an extraordinary debate, because the Leader of the Australian Democrats, probably for the first and last time ever, has relied on for her authority and cited as her authority a former CIA operative in terms of defending Saddam Hussein in relation to the atrocities alleged to have been committed, as she claimed, in relation to chemical warfare. That was the evidence that the Leader of the Democrats gave in her swimming against the tide position—which she is entitled to have, and I defend her right to have it, even though many in this chamber, I suspect, would strongly disagree. I do not want to rely on a former CIA operative in relation to Halabja. Let me rely on the Human Rights Watch organisation, Amnesty International and other organisations in relation to human rights and not a former CIA operative, as has the Leader of the Australian Democrats in terms of her—

The Hon. Sandra Kanck: He undertook a study.

The Hon. R.I. LUCAS: I am sure that the Human Rights Watch organisation and Amnesty International also undertook a study. As I said, it is completely the prerogative of the Leader of the Democrats to rely on a former CIA operative as justification for her position in defending Saddam Hussein in relation to Halabja. I am equally entitled to rely on Human Rights Watch, Amnesty International and, indeed, others.

I want to refer to the document *Iraq's Weapons of Mass Destruction*, the assessment released late last year by Labor Prime Minister Tony Blair. At page 14 the document states:

> Iraq had made frequent use of a variety of chemical weapons during the Iran-Iraq war. Many of the casualties are still in Iranian hospitals suffering from the long-term effects of numerous types of cancer and lung diseases. In 1988 Saddam also used mustard and nerve agents against Iraqi Kurds at Halabja in northern Iraq (see box on page 15.)—

that box is a graphic photograph of children's corpses found outside their homes—

> Estimates vary, but according to Human Rights Watch up to 5 000 people were killed.
>
> Iraq used significant quantities of mustard, tabun and sarin during the war with Iran resulting in over 20 000 Iranian casualties. A month after the attack on Halabja, Iraqi troops used over 100 tonnes of sarin against Iranian troops on the al-Fao peninsula. Over the next three months Iraqi troops used sarin and other nerve agents on Iranian troops causing extensive casualties.
>
> The Attack on Halabja.
>
> On Friday 17 March 1988 the village of Halabja was bombarded by Iraqi war planes. The raid was over in minutes. Saddam Hussein used chemical weapons against his own people. A Kurd described the effects of a chemical attack on another village:
>
> 'My brothers and my wife had blood and vomit running from their noses and their mouths. Their heads were tilted to one side. They were groaning. I couldn't do much, just clean up the blood and vomit from their mouths and try in every way to make them breathe again. I did artificial respiration on them and then I gave them two injections each. I also rubbed creams on my wife and two brothers.' (From 'Crimes Against Humanity' Iraqi National Congress.)

There are further references in that and other documents. But, as I said, there are obviously differing views in relation to this issue. I would suggest that the view that the Hon. Sandra Kanck has put is very much a rarity, or minority, in relation to this issue.

The other common criticism, both tonight and over the last four days since Sunday, in particular, has been a criticism of the Prime Minister and the federal government that they are not listening. I want to quote a comment—which was taken in another context, but I want to make, I guess, the cross-over comment. This person was asked by a radio commentator:

> . . . if it is popular and if it is being called for by the community, then shouldn't governments respond to the community's views?

The answer was:

> Yes I think governments should. . . parliaments should respond to the community views but not slavishly. . . we don't profess to have all the knowledge upon which to make a judgment. . . the general public itself is quite often led by what may have been a story and the way it's been portrayed. . . in the media. . . it's very dangerous if, as a member of parliament, I feel that I'm obliged to support any particular expression of opinion that comes up strongly from a group of the community.

That comment (and let me hasten to say that it was not made in relation to the debate on Iraq) was made by our parliamentary colleague the Hon. Mr Gilfillan in relation to the debate on law and order, where the Hon. Mr Gilfillan strongly and passionately put his views that the tide of public opinion, as he saw it, that was being surfed by Premier Rann, and I suspect he also believes surfed by the opposition as well—

The Hon. Ian Gilfillan: You're getting off the wave, though, I noticed.

The Hon. R.I. LUCAS: That may be the case; I am not sure. Of course members of parliament must listen but, in the end, they have been elected in a representative democracy to make judgments. They do not always surf the tide of public opinion to make a judgment. The Hon. Mr Gilfillan, as is his right and as he has done on many occasions, has put the minority view in this parliament, and the Prime Minister (as my colleague the Hon. John Dawkins has indicated) has not always surfed the tide of public opinion. That was the criticism I saw from Senator Stott Despoja on the weekend, that this was the most poll-driven Prime Minister in history and that he had always followed the polls yet why on earth was he not following public opinion in relation to the war.

I reject that notion of the Prime Minister. Whatever you think of him, he is a conviction politician. He actually fights for what he believes in and what he believes to be right. Whether we agree with him or disagree, that is an issue. I strongly disagreed with the Prime Minister as Leader of the

Opposition in the late 1980s in respect of his views on Asian immigration. The Prime Minister did not surf a tidal wave of popular support with the introduction of the GST or in terms of banning weapons after Port Arthur. He may well have been in tune with majority public opinion in relation to refugees, security and protection at the time of the last election, but on these occasions the point of view I put is that the Prime Minister, whether or not you like him, is actually a conviction politician. He actually does fight for what he believes in, and what he says is what he believes in on these issues.

If I can be permitted a brief political aside in relation to this serious debate, the problem that the Australian Labor Party has federally is that Simon Crean is not a conviction politician. The people of Australia have not understood the position of the federal Labor Party on this issue. The Labor Party started out with a position that was very similar publicly to the federal government's, that is, leaving open the option of potentially supporting a war with Iraq if in certain circumstances the United Nations had not endorsed it. Then under immense pressure from his own backbench, in particular the left wing of the federal Labor Party—and we have seen evidence of that in South Australia but also nationally through the outspoken comments of people like Carmen Lawrence and others—he changed his position to more closely mirror the left view of what the policy ought to be.

The problem that the Labor Party has is that its position seems to have swung again. I refer to a statement from Labor Party's foreign affairs spokesman, Kevin Rudd, and I quote from Laura Tingle's article in the *Australian Financial Review* last Monday as follows:

> Labor's foreign affairs spokesman Kevin Rudd left open the possibility of supporting non-UN sanctioned action against Iraq but argued that the case for any US-led action still had to be made.

The position from Kevin Rudd and the Labor Party as of Monday, if Simon Crean agrees with Kevin Rudd's position, is actually different from the position that Simon Crean and the federal Labor Party have been adopting for the past two to three weeks. So, I contrast the federal Labor position on this issue with the position of the Prime Minister, in that at least the people of Australia know the Australian government's position. Whether they agree with it or not, they know the Prime Minister's position and he continues to put that point of view very strongly.

Tonight we heard the Hon. Mr Gazzola referring to the Prime Minister in relation to the politics of the current debate. He used phrases such as 'lap-dog' as an indication of the broad left position, of which of course he is a wholly-owned subsidiary, and one accepts that. Nevertheless, it is an indication from the Hon. Mr Gazzola of the broad left position and some of the vitriol that is directed in a personal way to the Prime Minister.

I do not intend to go through the background, but a number of members have highlighted that Saddam Hussein and his regime are indeed evil, that they have committed atrocities. They have not complied with what has been required of them over very many years, although I do not intend to catalogue what other members have said there. But the question was raised by the Hon. Ms Gago and some others as to what has happened in recent times. What is the concern? There are many oppressive regimes throughout the world, so what is different? Why do people put themselves in the position of ultimately supporting our Australian government in terms of having to go to war to correct what is occurring in Iraq?

Yes, we have a person who has committed atrocities, who cannot be trusted and all those things, but what we actually have from my viewpoint is a madman who is in charge of a regime. We have not only a madman in charge of an oppressive regime but a madman in charge of an oppressive regime with access to chemical and biological weapons that are capable of being used by a madman and a small regime.

The Hon. Diana Laidlaw: And have been.

The Hon. R.I. LUCAS: Have been, as my colleague the Hon. Diana Laidlaw has said. They are capable of being used by a madman and a small regime, whereas nuclear weaponry is the province of much bigger, wealthier and better equipped regimes, whether they be super-powers or some of the emerging powers in regions around the world. What is different for me is that this madman has demonstrated a willingness to use these weapons—not against people he sees as enemies or the devil, in America and its allies, but against his own people within his own country. What is also different for me is that he has over some 10 to 15 years demonstrated links with terrorist groups throughout the world.

I accept the position of the Hon. Gail Gago: I am not in a position and she said that she was not, that she had seen no evidence to definitively prove that Iraq was linked with 11 September or to the Bali bombings. Some of the extremes of the debate seek to say that the link has been established. Maybe, maybe not. My position is similar to that of the Hon. Gail Gago. But what I do not think anyone can argue against is that Saddam Hussein for at least 10 to 15 years has had links with terrorist groups, organisations and individuals throughout the world. He is a madman. He has access to weapons of mass destruction, such as chemical and biological warfare which, in the hands of terrorist organisations and individuals, can destroy many tens of thousands of people throughout the world, and he has demonstrated a willingness to continue to maintain those links.

In fact, this week, allegedly in the second or third tape from Osama bin Laden, we have seen an unusual combination of bedfellows in bin Laden and Saddam Hussein, with him allegedly saying that on this issue they were in essence shoulder to shoulder, which is a chilling thought for many of us.

To answer the Hon. Gail Gago, what else is different is September 11. What else is different is the Bali bombings. For many of us, that is what has changed in the last 15 months. For 10 years, there has been no compliance with the United Nations resolution, but for 10 years we did not have people flying planes into the World Trade Centre; we did not have people putting bombs in nightclubs full of Americans, Australians and Balinese in Bali. For me, that is what is different in terms of—

The Hon. T.G. Roberts: How is this war going to stop that?

The Hon. R.I. LUCAS: How is what we are doing at the moment going to stop it, either? What we have seen with September 11 and with Bali is an escalation in a way that many of us never envisaged possible. I do not know about the Hon. Terry Roberts and his wildest conspiracy theories as a mad leftie from the Metallies, but many of us never considered it possible that we would be confronting a situation where, in the middle of Bruce McAvaney on Monday night footie, or whatever it was, there would be a live cross to planes flying into the World Trade Centre, or that on a Sunday morning we would wake up to find that Australians, South Australians and footballers from the Sturt Football Club have perished in a bombing in Bali. For me, that,

together with the other issues that I have indicated, is what is different.

Some people have put the point of view that there is no evidence of Iraq's links with terrorists. Again, I do not have time tonight to list the claims that have been made over the last 10 to 15 years, but I will refer members to Colin Powell's speech to the United Nations Security Council last week. In that speech, Colin Powell said:

> Iraq and terrorism go back decades. I want to bring to your attention the potentially much more sinister nexus between Iraq and the al-Qaeda terrorist network, a nexus that combines classic terrorist organisations and modern methods of murder. Iraq today harbours a deadly terrorist network headed by Abu Musab al-Zarqawi, an associate and collaborator of Osama bin Laden and his al-Qaeda lieutenants. Zarqawi, a Palestinian born in Jordan, fought in the Afghan war more than a decade ago. Returning to Afghanistan in 2000, he oversaw a terrorist training camp. One of the specialities of this camp is poisons. When our coalition ousted the Taliban, the Zarqawi network helped establish another poison and explosives training centre camp. This camp is located in north-eastern Iraq.

The Hon. IAN GILFILLAN: Point of order, Mr President. We were instructed that this debate would take two hours, and each speaker was able to speak for up to 10 minutes. Is that correct?

The PRESIDENT: There was no time limit. It was an ex officio agreement between all parties that it was to be approximately two hours. I have not stopped anybody in the past. It is never my intention to stifle debate, and this is an issue of great importance. I rely on members to restrain themselves, where restraint is needed, and to express themselves where they need to express themselves to put their point of view. I am sure that we will all take into account your concerns, Mr Gilfillan, but I will allow the Hon. Mr Lucas to continue.

The Hon. R.I. LUCAS: Thank you, Mr President. To return to the Hon. Terry Roberts's question by way of interjection, what is it that you do? As a number of members have highlighted, the first resolution of the United Nations was passed back in 1991, some 12 years ago. In April 1991, Security Council resolution 687 required Iraq:

> . . . to accept unconditionally the destruction, removal, or rendering harmless under international supervision of its chemical and biological weapons, ballistic missiles with a range greater than 150 kilometres and their associated programs, stocks, components, research and facilities. . .

In April 1991, resolution 687 obliged Iraq to provide declarations on all aspects of its weapons of mass destruction programs within 15 days. Within 15 days! Again, not wishing to aggravate the Hon. Mr Gilfillan, I will not go through the rest of the United Nations resolutions from 1991 to 1996, through to resolution 1441 of late last year.

For those who ask why are we rushing headlong into war, as someone described it, as Tony Blair has indicated, this is something that has been some 12 years in the making. At the end of last year, resolution 1441, which was agreed by all, stated that there needed to be immediate compliance by Iraq with these resolutions. Again, in deference to the Hon. Mr Gilfillan, I will not go through the details of 1441.

As the Hon. Ms Laidlaw has indicated, in the end the issue is: what do you do? Do you just continue for decades to pass resolutions when, at the end of last year, the final chance was given to Iraq—the final chance. It was told that it had to comply. So, in the end—

The Hon. Sandra Kanck: So, when are you bombing Israel?

The Hon. R.I. LUCAS: Frankly, that is a silly interjection. So, from that viewpoint, in the end you have to make judgments about these issues.

In conclusion, inevitably—whether it be in weeks or months—we will be looking at a post Saddam Hussein regime, whether he goes willingly, which I do not suspect he will, or whether ultimately he is forced from office. The international community needs to think about what will occur and how the post Hussein regime will be conducted. I do not believe that we will turn Iraq into a raging democracy. I think that is idealistic and unlikely to occur.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: My colleague interjects. However, we are talking about removing from power in Iraq, potentially, a madman in possession of chemical and biological weapons with links to terrorist organisations throughout the world. I think that is another issue, and again I will not speak at length on that.

I want to talk about the criticism that has been made of the Prime Minister and others. I join with the Hon. Mr Dawkins when he talked about Alexander Downer. For 20 years or more, I have been a close personal friend of Robert Hill, the Minister for Defence. I am an acquaintance and associate of Alexander Downer, Nick Minchin and Amanda Vanstone, four cabinet ministers. None of those people (and I speak with greater authority in relation to Rob Hill) is a warmonger. None of those four wants to rush headlong into war. None of those four wants to be a lap-dog for America, George Bush or, indeed, anyone else. Anyone who knows these people knows that they do not. I say the same thing about the Prime Minister.

Ultimately, if that decision is taken, it will be because they have looked at the information—and they will have access to more information than I and, I suggest, anyone in this council. If they make a decision that is different from the views of the Hon. Sandra Kanck and others, I hope that, whilst there is disagreement with that decision, those who disagree will not resort to the personal vilification that we have seen from some people about those individual personalities.

Those people might make a different decision, one that some may not like, but I do not believe that that would justify the personal vilification of those people, who I know feel a heavy responsibility at this time in relation to what will be a most important and difficult decision.

My final comment is a quote of two paragraphs from Tony Blair's speech, and we have heard little about Tony Blair from the Labor Party, nationally and in South Australia. The speech was entitled 'I want to solve the Iraq issue via the United Nations' delivered to the Labor Party conference in the last week. Tony Blair said:

> At every stage we should seek to avoid war. But if the threat cannot be removed peacefully, please let us not fall for the delusion that it can be safely ignored. If we do not confront these twin menaces of rogue states with weapons of mass destruction and terrorism, they will not disappear. They will just feed and grow on our weakness.
>
> When people say if you act, you will provoke these people; when they say now: take a lower profile and these people will leave us alone, remember al-Qaeda attacked the US, not the other way round. Were the people of Bali in the forefront of the anti-terror campaign? Did Indonesia 'make itself a target'? The terrorists won't be nice to us if we're nice to them. When Saddam drew us into the Gulf War, he wasn't provoked. He invaded Kuwait.

The PRESIDENT: I thank all members for their contribution on this most serious subject. I have listened to you all,

and you have all conducted yourselves with conviction and with an honesty in yourselves that you believe in what you say. My comment would be that, regarding those people in the coalition of the willing that identify the axis of evil, if you talk to the people on the other side, you find that they believe precisely the same about each other. The victims of war do not have the chance to debate the pros and cons. I think the United Nations is still the best hope for this whole world situation.

Motion carried.

SUMMARY OFFENCES (LOITERING) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1814.)

The Hon. CARMEL ZOLLO: The Hon. Mr Lawson has said that a person who is being targeted for harassment by persons such as Blackshirt vigilantes should not be required to go to a Magistrates Court to obtain an apprehended violence order. However, this is not necessarily required. A person who felt threatened by a person or group behaving in an intimidating manner outside their house could call the police and the police could make a request to cease loitering under section 18(1), backed up with the possibility of arrest if the request was ignored. Alternatively, or additionally where appropriate, section 99B of the Summary Procedure Act or section 8 of the Domestic Violence Act would give police the power to make an urgent phone application to a magistrate for a restraining order.

I turn now to the provisions of this bill. It would add nothing to the existing law. New section 18(1)(e) envisages situations which are already within the broad scope of either subsections (1)(a) or (1)(b). As I have already pointed out, the existing police powers are very wide. If police suspect that an offence such as disorderly behaviour, or any other minor offence, has been or is about to be committed, or if movement of pedestrians or traffic is being obstructed, or if any person is in fear of personal injury or loss of property, they can take action.

Because loitering itself is not an offence, there is no need for police to prove any criminal act or intention before making a request. Until and unless a person refuses a police officer's request to move, there is no offence committed merely by loitering. The offence is the refusal to leave or disperse when requested by police. In order for police to take action, it is not necessary for them to establish that a loiterer was intending to cause a breach of the peace, or intending to commit an offence such as disorderly behaviour. It is sufficient if the police form an opinion on reasonable grounds that one of these things has occurred or is about to occur.

If a loiterer is behaving in such a manner as to create distress or fear of harassment in a reasonable person within sight or hearing of the person or group, as this bill would have it, then it would also be reasonable for a police officer to form the belief that that person is probably causing a substantial breach of decorum, which tends to disturb the peace or interfere with the comfort of other people in the vicinity. Therefore, that person would be committing the offence of disorderly behaviour, contrary to section 7 of the Summary Offences Act. It would be reasonable for the police officer to form this belief, even if the loiterer held no such intention.

Therefore, I repeat what I said earlier: the proposed amendment adds nothing to the existing law. In two respects, the existing law is already stronger than the amendment proposed by this bill. First, the existing law does not require that a person who is fearful be a 'reasonable person'. If any person (even a particularly timid, nervous or anxious person) has a fear of physical harm or property damage and if that fear has been created by the action of loiterers, then there has been a breach of the peace. Police already have the power to require these loiterers to move on. The powers which would be granted by this bill could not be invoked unless the behaviour would adversely affect a reasonable person.

Secondly, the existing law can be invoked even if no offence has been committed. It is a pre-emptive power, which requires only that a member of the police force believes on reasonable grounds that an offence is about to be committed or that a breach of the peace is about to occur. The Hon. Mr Lawson's bill does not adopt this future tense. The proposed amendment would give police a power, based only on a person's actions in the present or the past.

Under the existing law, even when loiterers are making no overt gestures and their mere presence or appearance is sufficient to create fear in a particularly timid, shy, nervous or anxious person who is in the vicinity, provided that police can reasonably anticipate the possible commission of an offence or a breach of the peace, they may request the loiterers to move on. Under the existing law, police can act even before any fear of harm arises, as they need only a reasonable ground for believing that a breach of the peace is about to occur. For example, Blackshirt vigilantes marching to the home of a timid, shy person could be ordered to disperse even before they arrived at the home and before their targeted victim was even aware that they were on their way. In contrast, the amendment proposed by this bill would be of no use to police even after the vigilantes arrived unless the distress or fear it eventually created in the timid, shy victim satisfied the 'reasonable person' test.

I note that the bill is directed not at actions which constitute harassment or which are even perceived as harassment but merely at those actions that would create a fear of harassment. In his second reading speech, the Hon. Mr Lawson said:

> This proposal in no way seeks to return to the bad old days when police without any reason whatsoever could force people to move on because they did not like the look of a person.

Therefore, the bill does require that a person or group do something, that is, 'act' in a certain manner to create a fear of harassment. However, it is difficult to imagine what sorts of actions would be covered by this provision unless they were also covered under sections 18(1)(a) or 18(1)(b). How could an overly timid or anxious person (still not a reasonable person) have a fear of harassment?

What if a loiterer had done nothing to put them in fear of damage to person or property, nothing to breach the peace in any other way, nothing to suggest that any offence or breach of the peace was about to occur, was not in a location where traffic or pedestrians were or might be obstructed, and nothing to endanger the safety of any person in the vicinity? Absent any of these actions, if any person did have a fear of harassment then I suggest that such a fear would be based only on the mere appearance of the loiterer.

Although the amendment requires that a person be acting or to have acted, it nevertheless seems to imply that, for persons whose appearance is distasteful to others, merely hanging around ought to be something in which the police

can intervene. If so, the amendment does seek to take the law back to the bad old days, which the Hon. Mr Lawson mentioned.

In conclusion, it is apparent that no amendment is needed. The existing powers of section 18 are wide enough to cover all situations where there are genuine threats to individuals, their property or to the peaceful enjoyment of public streets and places. As I have mentioned, South Australia's laws give police the broadest powers in Australia. They were enacted in 1985 after comprehensive debate on the balance between the duty to regulate public disorder and the right of the public to go about its business. No cause has been shown to disturb the balance. It is not clear—indeed quite the contrary—that the activities of the Blackshirts are not caught by existing powers. Even if the bill does extend powers, and that is doubted, it does so in a complicated way not confined to the activities of groups such as the Blackshirts. The government does not support this bill.

The Hon. A.J. REDFORD secured the adjournment of the debate.

HEALTH AND COMMUNITY SERVICES COMPLAINTS BILL

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

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of the *Health and Community Services Complaints Bill 2002* is to provide for the making and resolution of complaints against health or community service providers; to make provision in respect of the rights and responsibilities of health and community service users and providers; and for other purposes.

Before detailing the purposes and provisions of the Bill it is worth recalling the background to the development of this legislation.

This initiative to establish a Health and Community Services Ombudsman is long overdue. Every day our fellow South Australians in their thousands approach health and community services for help, support and care. They do this at a time in their lives when they are at their most vulnerable due either to physical or mental illness, disability, or the despair brought on by family crises, unemployment, poverty and social exclusion.

Most people can and do approach these vital health and community services with confidence, certain in the knowledge that they will receive the help they need in a caring, respectful and professional manner. South Australia's dedicated health and community service providers, whether in government, nongovernment or private sectors, have an enviable and well-deserved reputation for delivering high quality services that meet 'world's best' standards of care.

While this picture is true for most people who use these services there is another more disturbing experience which can confront consumers. The sad reality is that things can go wrong when they should not. People can be poorly cared for, or receive the wrong treatment or medication, or can be dealt with in a disrespectful or at times careless manner. They can have their rights denied or be further damaged, or worse, by the very services meant to assist them.

Before honourable members come to debate the provisions of this Bill I ask that we all remember one critical thing, and that is that problems and complaints about health and community services are intensely personal and affect individuals every day when they are at their most vulnerable. I am sure that all honourable members have dealt with women trying to escape from domestic violence situations who have not been helped by crisis service, or the mental health patient who cannot get the community support she needs, or the daughter whose elderly parent is not being cared for properly in an aged care facility, or the son whose mother received the wrong medication, or the expecting mother whose antenatal care is compromised because the GP and the specialist are not coordinating their services, or the teenager who has been mistreated by the care system designed to protect him or her.

Sometimes these problems can arise because of lack of resources or through misunderstanding and confusion. But we cannot discount the possibility of poor practices, improper or unethical behaviour or things just plainly going wrong when they should not.

In these times when people are at their most vulnerable the last thing they need is for a care service to further harm them or exclude them. The last thing they need is to be abandoned. The Labor Government is pledged to stand by people to provide them with the means of having their complaints and concerns addressed and resolved. At the very centre of the Government's Election Policy in Health and Community Services was the commitment to introduce this legislation.

There is now an established system of accountability for health providers internationally and throughout every State and Territory in Australia. That is, except here in South Australia. Everywhere in Australia if people have a problem with a provider of care, either public or private, and cannot resolve it directly, they can seek the intervention of a powerful, independent complaints body. Everywhere that is except here in South Australia.

Former State Labor governments started the process of providing health consumers with protection in the South Australian health system. In the 1980s the then State Labor Government established the Health Advice and Complaints Office as part of its commitment to develop a broader based independent complaints office.

In 1993 the then State Labor Government signed the Medicare Agreement committing the Government to establish a Charter for Health Consumer Rights and an Independent Health Complaints Agency. The former Minister for Health and former Member for Elizabeth, the Honourable Martyn Evans, concluded a broad based consultative process and developed clear proposals for a Charter and draft legislation to establish such a Complaints Agency.

It was not until 1996 that the former Minister for Health Dr Michael Armitage finally moved to establish a small Unit with limited powers and jurisdiction, within the Office of the State Ombudsman. I emphasise that this however only provided for limited coverage of the State Public Health System.

By 1996 the rest of the country had already moved beyond the terms of the 1993 Medicare Agreement. By 1996 all other States and Territories in Australia had either implemented or were in the process of establishing comprehensive independent health complaints commissioners or ombudsmen, which had the powers to cover both the public and private system. These moves were in line with recommendations of the 1996 Final Report of the Task Force on Quality in Australian Health Care.

It is clear to anyone who has had to use a health or community service or who provides such services that people can and often do receive assistance from many different professionals and providers across the public, non government and private systems. A person can approach a general practitioner, be admitted to both a public and then private Hospital at different stages of care, use the services of a specialist, have tests performed by pathologists or radiologists and receive after care by Domiciliary Care or RDNS, and they may then also approach community support agencies for ongoing assistance. On each occasion of service they move across an unseen border between the public and private system. If all is well this movement should present no problem. But when things go wrong who is to say where a proper investigation must go in order to identify an error and reach a resolution? In South Australia the State Ombudsman's Consumer Health Complaints Unit can only intervene with the public sector, not the private and nongovernment care services.

In July 1998 Labor introduced a Private Member's Bill into the House of Assembly to amend the South Australian Health Commission Act. This amendment would have broadened the powers of the State Ombudsman to include private and nongovernment health care providers within his or her jurisdiction.

In March 2000 and again in October 2000 Labor tabled a more comprehensive proposal than the one contained in the 1998 Bill. The Bill tabled in 2000 was very similar to this Bill. That Bill also sought to establish a Health and Community Services Ombudsman with wide powers to investigate, conciliate and resolve complaints not just across the public, nongovernment and private sectors but also across the broad sweep of health and community services. That Bill has been available for debate, discussion and broad community consultation for over two years. Many well considered responses

from the community and service provider groups were received. Their views have helped strengthen the current form of this Bill and the Government thanks them for their contribution.

The former Minister for Human Services finally tabled some legislation in 2001, as a result of Labor's actions and as a result of community pressure. However that Bill was deeply flawed and was based on minimal consultation. It was never debated.

The Health and Community Services Ombudsman established by this Bill will have wide powers of investigation. The principal aim though is to seek resolution and remedy. The Bill builds on the well-established reputation for independence, which is the cornerstone of the public's confidence in an Ombudsman role. The Health and Community Services Ombudsman does not take sides, but rather has the authority to seek out the truth of a complaint and has the authority to construct a remedy.

The Bill is far-reaching in its jurisdiction simply because it reflects the diversity of providers of health and community services. In today's world, health and community services are delivered in a wide variety of settings including: government, nongovernment and private operators, registered professionals, unregistered care providers, alternative and complementary therapists, volunteers, large institutions, shopfront and neighbourhood centres. To this point no one authority has had the ability to go with people, protect their interests, investigate their grievances and provide an avenue for redress, resolution and remedy. This Bill will allow this to happen.

The Health and Community Services Ombudsman does not duplicate the role of professional Registration Boards. It is clear that the Health and Community Services Ombudsman's role is complementary. Registration Boards are there to protect the public interest, but whatever disciplinary steps may be taken by a Board or Tribunal it can still leave the complainant outside of the process and without a sense of resolution.

Unfortunately also, for some members of the public, Registration Boards are seen as professional clubs, closed shops designed to protect the interests of the professionals. Whilst this is not the Government's view, we believe such a perception underscores the absolute necessity of having a Health and Community Services Ombudsman who is and who is seen to be completely independent of any professional group or provider. Only then can the public approach the Health and Community Services Ombudsman with confidence.

The other limitation on the role of the Boards is that they are only empowered to examine the conduct of one particular professional group like doctors or nurses or physiotherapists. Today, health and community services are more often than not based on multidisciplinary teamwork where a consumer can receive a variety of services from a range of registered professionals or unregistered care providers at the same time. A Registration Board is unable to look at the full range of issues, which could arise.

In addition to the conduct of any one professional a problem or complaint may cut across a number of professional groups or care workers, the organisations they work for, or the methods of their coordination and communication. Only the Health and Community Services Ombudsman has the ability to investigate the total care process.

It is always hoped that whatever the complaint may be, it can be addressed and resolved directly and immediately between the consumer and the provider. But this cannot always happen. Sometimes the power imbalance between the consumer and provider is too great, or sometimes the complaint is too serious for there to be an effective, direct avenue for remedy. By establishing the Health and Community Services Ombudsman, Parliament recognises this problem and provides a place of last resort where aggrieved parties can seek objective investigation, conciliation, resolution and remedy.

The approach taken by the Health and Community Services Ombudsman envisaged in this Bill is one that not only benefits consumers but also benefits health and community service providers. When the relationship of trust between the provider and consumer breaks down, because of actual or perceived problems in the care delivered, it can sometimes be almost impossible for providers to restore that trust by themselves. The Health and Community Services Ombudsman can be an independent third party who assists the provider and consumer examine the problem and help to conciliate their differences.

In underscoring the role of the Health and Community Service Ombudsman regarding providers of services I want to briefly mention the situation as it applies to volunteers. Volunteers in South Australia make great sacrifices to give of their time to help improve the health and welfare of their fellow community members. The Premier himself has taken on the Portfolio as Minister for Volunteers to demonstrate how important their role is and how much this Government values their significant contribution.

Volunteers of course can be the subjects of a complaint from an aggrieved consumer. That is to be expected, but volunteers have nothing to fear from this legislation. The legislation is about resolution not persecution, it is designed to ensure that providers (including volunteer providers) and consumers are fairly dealt with and can arrive at a positive solution to whatever problem may exist between them.

In the case of a volunteer they are invariably providing a service through an organisation, as such should a complaint be made about them which comes to the attention of the Health and Community Service Ombudsman, the actual process of investigation is directed at the organisation providing the service. The volunteer is providing a service as an 'agent' of that organisation, be it a hospital, local community support centre or welfare group. The volunteer by definition would not be expected to deal with this situation by themselves. Their organisation would also be intimately involved in dealing with a problem and finding a remedy if needs be. This approach has been reinforced by amendments moved by the Government in another place.

As bold as some Members think this initiative may be, all it does is to bring South Australia into line with well-established national and international moves of several years standing. Health Complaints Commissioners or Ombudsmen are established facts in all other States and Territories in Australia. Several have had their legislation drafted or specifically amended to include community services within their jurisdiction.

Where this Bill goes further is in providing clear and inclusive definitions for health and community services covered by the legislation, it also provides for a clearer role for the Health and Community Services Ombudsman in early and informal resolution of complaints and, finally, it clarifies the role between the Health and Community Services Ombudsman and other complaint handling bodies particularly Registration Boards to ensure a proper and well coordinated working relationship between all parties.

I will now detail the provisions of the Bill.

The Bill establishes a Health and Community Services Ombudsman whose independence is guaranteed by legislation. The Health and Community Services Ombudsman will have an extensive jurisdiction covering health and community services sectors in the government, non- government and private sectors. This jurisdiction reflects the diversity and complexity of the health and community sectors. The Bill confers extensive powers on the Health and Community Services Ombudsman to assess, investigate and where appropriate conciliate complaints. The chief purpose of the Bill, as I have stated, is to seek resolution and remedy.

The role of the Health and Community Services Ombudsman is extended to look at the issues of rights and quality standards and complaints more systematically. The Health and Community Services Ombudsman will be able to comprehensively monitor trends in complaints across the health and community services sectors.

The Health and Community Services Ombudsman will also have the powers to initiate investigations into emerging problems in the service delivery system and therefore will play an important part in fostering safety and quality improvement across health and community services generally.

A key task of the Health and Community Services Ombudsman will be to draft a Charter of Health and Community Services Rights for consumers. It is intended that this Charter will provide a description of consumer rights or entitlements. In other words, it will be a description of what consumers can reasonably expect from health and community service providers and other professional providers in these areas. The denial of these rights can in itself become a basis for complaint.

The Health and Community Services Ombudsman must, when developing the Charter of Health and Community Services Rights, have regard to a number of important principles including the rights of a person:

- to participate effectively and have an active role in decisions about their health, wellbeing and welfare;
- to be provided with appropriate health or community services in a way considerate of their background, needs and wishes; and
- to have access to procedures for dealing with complaints about the provision of health or community services.

By introducing this Bill, this Government is presenting to Parliament a detailed set of proposals to provide consumers with a

comprehensive and straight-forward system for responding to their needs when the system may have failed them in some way.

Research suggests that frequently consumers want a frank acknowledgment of the problem created, an apology from the service provider and an assurance that the issue will be addressed so that others do not have the same experience.

It is worthwhile to make reference to the 1999 report of the Expert Advisory Group on Safety and Quality in Australian Health Care, which states:

> *The Quality in Australian Health Care Study (Wilson et al 1995) estimated that in Australia 'adverse events' account for 3.3 million bed days per year, of which 1.7 million (that is, about 8 per cent of all bed days) would have been from adverse events that were potentially preventable.*

The researchers also noted that:

> *as in other complex systems ... adverse events in health care seldom arise from a single human error or the failure of one item of equipment but are usually associated with complex interactions between management, organisational, technical and equipment problems, which not only set the stage for the adverse event but may be the prime cause.*

These adverse events can range from relatively minor disagreements through to life-threatening errors, and in some instances even death. The causes of these events in our health system covers a wide spectrum, from problems with resources, unthinking bureaucratic procedures, poor communication, staff attitudes, inexperience and lack of junior staff. Whatever the cause, none must be tolerated. People's health is too important. The basic principle of health care is, first, do no harm. Our health and community service providers must continue to grapple with improving the quality of their services for the good of their clients and for the good of the community as a whole. But they must do it with the consumer.

This Bill then, in addition to being a mechanism for addressing individual concerns, also becomes an important mechanism to support the quality and safety of a complex system and the services it provides.

It is incumbent on government to establish an effective system that protects South Australian consumers when the health and community services system fails, or is perceived to fail, to deliver appropriate care. This Bill must therefore pass several tests. A properly established agency must have the following:

- it must be rights based; its processes must be transparent and accountable;
- its jurisdiction must be comprehensive, covering private and public health and community services to reflect modern, complex service provision networks;
- it must have extensive powers of early intervention, conciliation and investigation;
- it must be independent;
- it must offer protection to complainants and service providers alike;
- it must have the capacity for speedy and effective interventions with the minimum amount of formality necessary;
- it must be accessible to all South Australians;
- it must have the capacity for research and analysis and the ability to conduct systemic reviews when necessary;
- it must have a broad-based education function for both consumers and service providers; and
- it must have consultation and involvement mechanisms for consumers and providers to promote dialogue on emerging issues and trends.

The Health and Community Services Complaints Bill passes all these tests.

The Bill has nine parts which set out the jurisdiction, objectives, powers and functions of the Office of the Health and Community Services Ombudsman.

Part 1 of the Bill states the definition of terms.

Part 2 deals with the administration of the Act. It describes the process to appoint the office of the Health and Community Services Ombudsman and the terms and conditions of office. It also defines the functions and powers of the Health and Community Services Ombudsman ensuring the independence of the office. A key aspect of the Health and Community Services Ombudsman's role is the duty to encourage and assist direct resolution of complaints between users and service providers.

Part 2 also makes the Ombudsman responsible for identifying and reviewing issues arising out of complaints and to make recommendations for improving services, and recommend ways to preserve and increase the rights of consumers.

Part 3 provides for the development of a Charter of Health and Community Services Rights in consultation with interested persons.

Part 4 deals with the making and assessment of complaints and the process for suspending or taking no further action on complaints.

Part 5 deals with the conciliation process and Part 6 the matters that the Ombudsman may investigate and the conduct of investigations. To maximise the opportunities for access to the complaints mechanism, the Ombudsman has discretionary powers to provide appropriate assistance and encourage internal resolution and early intervention, where necessary.

Part 7 describes the relationship between the Health and Community Services Ombudsman and Registration Authorities and the process of referral between each.

Part 8 establishes the Health and Community Services Advisory Council and describes its membership and functions, the major part of which is to advise the Ombudsman and the Minister on matters related to the operation of the Act and on means to inform users, health and community service providers and the public.

Part 9 deals with miscellaneous matters not dealt with elsewhere in the Act, such as delegation of power or function, protection of identity of service user or complainant and maintenance of confidentiality, protection of consumers from intimidation and reprisals, and the scope of regulations related to the Act.

In summary, this Bill establishes a benchmark for resolving complaints in both the health and community service sector under a single piece of legislation and a single office. No other State or Territory provides for this level of support for users of health and community services in both the public and private system. In this way it is a much more comprehensive Bill than that previously proposed by the now Opposition. It ensures that the Health and Community Services Ombudsman must always act impartially, independently, and in the public interest.

Finally this Bill stands as testament to this Government's commitment to return South Australia to national leadership in social advancement. This Government is committed to bringing about bold, much needed and well thought through reforms to improve the life of all South Australians. The measures contained in this Bill provide fair, reasonable, balanced and accountable reforms designed to protect individuals as well as improve the quality of services for all of us.

I commend this Bill to the House.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure may be brought into operation by proclamation.

Clause 3: Objects

This clause makes specific provision with respect to the objects of the legislation.

Clause 4: Interpretation

This clause sets out the definitions required for the purposes of the measure. The measure will apply to community services and health services, as defined. It will be able to exclude classes of service by regulation.

Clause 5: Appointment

There will be a *Health and Community Services Ombudsman* (the "HCS Ombudsman"), who is to be appointed by the Governor.

Clause 6: Term of office and conditions of appointment

The HCS Ombudsman is to be appointed on conditions determined by the Governor for a term not exceeding 7 years. An appointment may be renewed but a person must not hold the office for more than two consecutive terms. Limitations will be placed on the ability of the Governor to remove the HCS Ombudsman from office.

Clause 7: Remuneration

The HCS Ombudsman will be entitled to remuneration, allowances and expenses determined by the Governor.

Clause 8: Temporary appointments

The Minister will be able to appoint a person to act as the HCS Ombudsman in an appropriate case.

Clause 9: Functions

This clause sets out the functions of the HCS Ombudsman under the Act. These include to prepare and review the Charter of Health and Community Service Rights, to identify and review issues arising out of complaints and to make recommendations for improving health and community services, to receive and to assess and resolve complaints.

Clause 10: Powers

The HCS Ombudsman will have such powers as are necessary for the performance of the HCS Ombudsman's functions.

Clause 11: Independence

The HCS Ombudsman will act independently, impartially and in the public interest. The HCS Ombudsman will not be subject to Ministerial control.

Clause 12: Committees

This clause provides that the HCS Ombudsman may establish such committees as may be required.

Clause 13: Appointment of conciliators and professional mentors

The HCS Ombudsman will be able to appoint suitable persons as conciliators or professional mentors under the Act. An appointment will be for a term not exceeding three years determined by the HCS Ombudsman, on conditions determined or approved by the Minister.

Clause 14: Staff

This clause deals with staffing arrangements. The HCS Ombudsman will be able to enter into arrangements for the use of the staff, equipment and facilities of a Department.

Clause 15: Budget

The HCS Ombudsman's annual budget is to be submitted for examination by the Economic and Finance Committee.

Clause 16: Annual report

The HCS Ombudsman will prepare an annual report, which must be tabled in Parliament.

Clause 17: Immunity

A person acting under the Act will not incur any personal liabilities for his or her acts or omissions (except in a case of culpable negligence). The liability will instead attach to the Crown.

Clause 18: Development of Charter

The HCS Ombudsman will be required to develop a draft *Charter of Health and Community Service Rights*. The draft is to be presented to the Minister within 12 months, or such longer period as the Minister may allow.

Clause 19: Review of Charter

The HCS Ombudsman will be able to review the charter, as appropriate (and will be required to do so at the direction of the Minister).

Clause 20: Consultation

The HCS Ombudsman will be required to take steps to achieve a wide range of views when developing or reviewing the charter.

Clause 21: Content of Charter

This clause sets out various principles that must be considered when the HCS Ombudsman is developing or reviewing the charter. These include having regard to principles such as the fact that a person should be entitled to participate in decisions about the person's health and well-being, that a person should be entitled to take an active role in the person's health care and that health and community services should be provided to the person in a considerate way.

Clause 22: Approval of Charter

The Charter will be subject to the approval of the Minister and will be subject to scrutiny by Parliament.

Clause 23: Who may complain

A complaint about a health or community service may be made by a user of the service, someone acting on behalf of the user of the service, a service provider if the service is having to be provided because of the actions of another provider, close relatives or other recognised persons if the user of the service has died, the Minister, the Chief Executive of the Department, or another person authorised by the HCS Ombudsman in the public interest.

Clause 24: Grounds on which a complaint may be made

This clause sets out the grounds upon which a complaint may be made. These include that a health or community service provider has acted unreasonably by not providing a health or community service or providing a service that was unnecessary or in an unreasonable manner, or the provider failed to treat a user in an appropriate professional manner or respect a user's privacy or dignity.

Clause 25: Form of complaint

A complaint is to be made in the manner approved or determined by the HCS Ombudsman and must set out all relevant grounds of complaint.

Clause 26: Time within which a complaint may be made

A complaint must be made within two years after the day on which the complainant first had notice of the circumstances giving rise to the complaint unless the HCS Ombudsman is satisfied that it is proper to entertain the complaint in any event after taking into account various factors.

Clause 27: Further information may be required

The HCS Ombudsman may require a complainant to provide further information or document, or to verify a complaint by statutory declaration.

Clause 28: Assessment

The HCS Ombudsman must assess a complaint within 45 days after receiving it (or such longer period as may be required in view of any delays or a preliminary inquiry) and then either refer it to a conciliator under this measure, investigate it, refer the complaint to a registration authority or other person (if appropriate), or decide to take no further action. A complaint may only proceed if it appears that the complainant has taken reasonable steps to resolve the matter with the relevant health or community service provider.

Clause 29: Preliminary inquiry

The HCS Ombudsman may undertake a preliminary inquiry in relation to a complaint and during the conduct of the inquiry, assist the parties to resolve the complaint through informal mediation.

Clause 30: Provision of documents, etc., on referral of complaint

The HCS Ombudsman may hand over documents and information on a referral and may make copies or take extracts from such documents.

Clause 31: Splitting or joining of complaints

The HCS Ombudsman will be able to either split a complaint into two or more complaints, or join two or more complaints together in appropriate cases.

Clause 32: No further action on complaint

The HCS Ombudsman may at any stage, determine to take no further action on a complaint in certain circumstances. These include where the HCS Ombudsman is satisfied that the complainant is not entitled to make a complaint under this measure, or that there are no grounds for a complaint or the complaint is frivolous, vexatious or not made in good faith. The HCS Ombudsman must take no further action on a complaint if the matter has been adjudicated by a court, tribunal, authority or other body.

Clause 33: Withdrawal of complaint

A complainant may withdraw a complaint at any time. The withdrawal of a complaint under this provision does not necessarily affect the powers of a person or authority to whom the matter has been referred.

Clause 34: Function of conciliator

A conciliator will attempt to encourage settlement of the complaint by arranging discussions, assisting in the making of an amicable agreement, and taking other action with a view to resolving the complaint.

Clause 35: Public interest

The HCS Ombudsman and, if necessary, a conciliator, will identify any issues raised by the complaint that involve the public interest.

Clause 36: Assistance at conciliation

A party to a conciliation may be assisted by another person unless otherwise directed by the conciliator. A party to a conciliation must not be represented by another person unless the HCS Ombudsman is satisfied that the representation is likely to assist substantially in resolving the complaint.

Clause 37: Reports from conciliator

A conciliator must provide a written progress report to the HCS Ombudsman on request. A conciliator will provide a written report of the results of the conciliation to the HCS Ombudsman when satisfied agreement has either been reached or it is not possible to reach agreement.

Clause 38: Conciliation may be brought to an end

A conciliator may end a conciliation for any reasonable cause at any time or at the direction of the HCS Ombudsman. A conciliation must be brought to an end if the conciliator or the HCS Ombudsman considers that the complaint reveals the existence of a significant issue of public safety, interest or importance or a significant question as to the practice of a health or community service provider. If, at the end of a conciliation there are matters that remain unresolved, the HCS Ombudsman may refer the complaint to another conciliator, investigate the complaint, refer the complaint to a registration authority or other person (if appropriate), or decide to take no further action.

Clause 39: Privilege and confidentiality

Anything said in a conciliation (other than an issue of public safety, interest or importance) must not be disclosed in any other proceedings without the consent of the parties to the conciliation.

Clause 40: Professional mentor

The HCS Ombudsman may appoint a professional mentor to be available to the conciliator to discuss any matter arising in the performance of the conciliator's functions.

Clause 41: Enforceable agreements

An agreement reached through a conciliation process may be made in a binding form.

Clause 42: Matters that may be investigated

The HCS Ombudsman will be able to investigate any matter specified in a written direction of the Minister, a complaint under the measure, an issue or question arising from a complaint if it is a significant issue of public safety, interest or importance or significant question as to the practice of a health or community service provider, or any other matter relating to the provision of health and community services in South Australia.

Clause 43: Limitation of powers

The statutory powers of the HCS Ombudsman under this part of the measure may only be exercised for the purposes of an investigation.

Clause 44: Conduct of investigation

An investigation will be conducted in such manner as the HCS Ombudsman thinks fit.

Clause 45: Representation

A person required to appear or to produce documents may be assisted or represented by another person. The HCS Ombudsman may also make a determination about representation of a person to whom an investigation relates, taking into account the need to be fair to all persons involved in the proceedings.

Clause 46: Use and obtaining of information

The HCS Ombudsman may obtain information or documents relevant to an investigation, or require a person to produce information or documents, or to attend before a specified person and answer questions. There is a maximum penalty of $5 000 for failing to comply with such a requirement.

Clause 47: Power to examine witnesses, etc.

A person may be required to take an oath or affirmation, or to verify any information or document by statutory declaration.

Clause 48: Search powers and warrants

A magistrate will be able, on the application of the HCS Ombudsman, to issue a warrant authorising a person to enter and search premises for the purposes of an investigation, seize and remove anything relevant to the investigation or require a person on the premises to answer questions or provide information relevant to the investigation.

Clause 49: Reimbursement of expenses

A person attending for the purposes of an investigation may claim expenses and allowances allowed by the HCS Ombudsman.

Clause 50: Reference to another authority for investigation

The HCS Ombudsman may refer a matter arising in an investigation to another authority, person or body (without limiting any power to investigate further).

Clause 51: Possession of document or other seized item

The HCS Ombudsman may retain documents or things seized under these provisions for such period as is necessary for the purposes of the investigation.

Clause 52: Privilege

A person is not required to answer a question or provide information or a document that might tend to incriminate a person of an offence. A person is not to be required to provide information privileged on the grounds of legal professional privilege.

Clause 53: Reports

The HCS Ombudsman may prepare reports during an investigation, and must prepare a report at the conclusion of an investigation. The HCS Ombudsman may provide copies of a report to such persons as the HCS Ombudsman thinks fit. A report may contain information, comments, opinions and recommendations for action.

Clause 54: Notice of action to providers

If the HCS Ombudsman concludes that a complaint is justified but appears incapable of being resolved, the HCS Ombudsman may make recommendations to the relevant service provider. The service provider must advise the HCS Ombudsman as to the action that he or she is willing to take to remedy any unresolved grievances. The HCS Ombudsman may publish a report together with the service provider's advice and any other commentary considered appropriate.

Clause 55: Right of appeal

An appeal will be able to be lodged in the District Court if a process involved in the preparation of a report has not been procedurally fair.

Clause 56: Complaints received by HCS Ombudsman that relate to registered service providers

If the HCS Ombudsman receives a complaint that involves a registered service provider, the Ombudsman should consult with the relevant registration authority in relation to the management of the complaint unless the HCS Ombudsman resolves the matter through informal mediation or decides to take no further action on the complaint.

With its agreement, the complaint may be referred to the registration authority. If the registration authority and the HCS Ombudsman are unable to agree as to who should deal with the complaint, the party that considers the complaint should be investigated will be responsible for conducting the investigation. If both parties consider the complaint warrants investigation, the registration authority must comply with the written direction of the HCS Ombudsman. If the registration authority thinks there is sufficient grounds for the matter to be heard as disciplinary proceedings in accordance with its registration Act, the HCS Ombudsman must refer the matter to the registration authority.

The registration authority and the HCS Ombudsman may agree on protocols in relation to the referral of complaints.

Clause 57: Referral of complaint to registration authority

A registration authority that receives a referral from the HCS Ombudsman must investigate the matter or otherwise deal with it under its registration Act. The registration authority must report its findings to the HCS Ombudsman and any action it has taken or proposes to take.

Clause 58: Action on referred complaints

A registration authority that receives a referral may exercise the powers and perform the functions in relation to the complaint in accordance with its registration Act.

Clause 59: Referral of complaint to HCS Ombudsman

A registration authority that receives a complaint that appears to be capable of constituting a complaint under this Act must consult with the HCS Ombudsman and may refer the matter to the HCS Ombudsman under this clause.

If the registration authority and the HCS Ombudsman are unable to agree as to who should deal with the complaint, the party that considers the complaint should be investigated will be responsible for conducting the investigation. If both parties consider the complaint warrants investigation, the registration authority must comply with the written direction of the HCS Ombudsman. If the registration authority thinks there is sufficient grounds for the matter to be heard as disciplinary proceedings in accordance with its registration Act, the HCS Ombudsman must refer the matter to the registration authority.

Clause 60: Action on investigation reports

A registration authority must inform the HCS Ombudsman whether it is going to act in relation to a matter raised in a report referred to the authority by the HCS Ombudsman. Following performance of the function in accordance with a recommendation, the authority must advise the HCS Ombudsman in relation to the results, any findings and any other action taken or proposed to be taken.

Clause 61: Information from registration authority

A registration authority may provide to the HCS Ombudsman information, comment or recommendations relevant to a complaint. The HCS Ombudsman may request a registration authority for a report on the progress of an investigation of a complaint.

Clause 62: Information to registration authority

A registration authority may request the HCS Ombudsman to provide a report on the progress or result of an investigation of a complaint.

Clause 63: Assistance with proceedings

The HCS Ombudsman may assist a registration authority in any matter if requested by it.

The HCS Ombudsman is entitled to appear or be represented in proceedings before a registration authority and in doing so, may provide documents and other material, call evidence, examine or cross-examine witnesses or make representations and submissions.

Clause 64: Interim action on a complaint

A registration authority may take interim measures in relation to a registered service provider's right to practice under the relevant registration Act pending the outcome of any consultation or investigation under this measure, including suspension or imposing conditions on the provider's right to practice.

Clause 65: Further action by registration authority

This measure does not prevent a registration authority from taking action in relation to a registered service provider in addition to action taken or recommended by the HCS Ombudsman.

Clause 66: Establishment of Council

Clause 67: Conditions of membership

Clause 68: Functions of the Council

Clause 69: Procedure at meetings

Clause 70: Disclosure of interest

These clauses provide for the creation of the *Health and Community Services Advisory Council* to provide advice to the Minister and the HCS Ombudsman in relation to various matters, or to refer matters that, in the opinion of the Council, should be dealt with by the HCS

Ombudsman under this measure. The Council may not provide advice in relation to the handling of a particular complaint.

Clause 71: Delegation

The Minister or the HCS Ombudsman may delegate a power or function under the measure to another person.

Clause 72: Adverse comments in reports

The HCS Ombudsman must give a person in relation to whom an adverse comment is to be made in a report (and who is identifiable) a reasonable opportunity to make submissions in relation to the matter before the comment is made unless the HCS Ombudsman is satisfied that such action is inappropriate in accordance with the terms of this provision.

Clause 73: Protection of identity of service user or complainant from service provider

The HCS Ombudsman may withhold revealing to a service provider the identity of a service user or complainant in certain cases.

Clause 74: Preservation of confidentiality

A person involved in the administration of the measure will be prevented from disclosing confidential information, other than as permitted under this clause.

Clause 75: Returns by prescribed providers

Designated health or community service providers will be required to lodge returns with the HCS Ombudsman containing specified information about complaints.

Clause 76: Offences relating to intimidation

It is an offence for a person to threaten or intimidate another person to refrain from making a complaint or to withdraw a complaint, fail to provide information or otherwise fail to co-operate in relation to the performance of the HCS Ombudsman's functions under the measure.

Clause 77: Offences relating to reprisals

It is an offence for a person to treat a person unfavourably on the basis that a person has made a complaint, provided information or otherwise co-operated with the HCS Ombudsman in the performance of his or her functions (unless the person made false allegations or has not acted in good faith).

Clause 78: Offences relating to obstruction, etc.

A person must not obstruct or otherwise hinder the HCS Ombudsman in performance of his or her functions under this measure.

Clause 79: Offences relating to the provision of information

A person must not provide the HCS Ombudsman or other person with information they know to be false or misleading or to fail to provide information, without which may be false or misleading in a material particular.

Clause 80: Protection from civil actions

If a person acts in good faith, he or she is not liable for any loss, damage or injury suffered by another person in relation to making a complaint, a statement or report, or providing information, documents or a report to an authorised person under the measure.

Clause 81: Informality of procedures

The HCS Ombudsman will have regard to the rules of natural justice when acting under the measure and should proceed with the minimum of formality.

Clause 82: Determining reasonableness of health or community service provider's actions

In assessing the reasonableness of the conduct of a health or service provider under the measure, the HCS Ombudsman must have regard to the Charter, principles specified under the measure, and generally accepted standards.

Clause 83: Regulations

The Governor may make regulations for the purposes of the measure.

Clause 84: Review of Act

The Act will be reviewed after 3 years of operation.

Clause 85: Transitional provision

A complaint may be dealt with under the measure even though the circumstances arose before the commencement of the measure if the complainant was aware of the circumstances not earlier than two years before the commencement of the measure.

Schedule

The Schedule specifies registration Acts for the purposes of this measure.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

WATER RESOURCES (MISCELLANEOUS) AMENDMENT BILL

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

ADJOURNMENT

At 10.30 p.m. the council adjourned until Thursday 20 February at 2.15 p.m.