LEGISLATIVE COUNCIL

Wednesday 2 April 2003

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

DNA TESTING

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a ministerial statement on broadening DNA testing made by the Premier.

RELIGIOUS DISCRIMINATION AND VILIFICATION

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement on religious discrimination and vilification, a discussion paper, made today in another place by the Hon. Michael Atkinson, Attorney-General and Minister for Justice.

TODAY TONIGHT PROGRAM

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement on *Today Tonight* and the death of Anna-Jane Cheney made on Tuesday 1 April in another place by the Hon. Michael Atkinson, Attorney-General and Minister for Justice.

QUESTION TIME

STATE BUDGET

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 state budget.

Leave granted.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: Which one would you like? As is traditional, yesterday senior officers in the Department of Treasury and Finance conducted the 2003-04 briefing forum at which senior Public Service agency budget officers attend and are given background to the formation of the budget and the budget papers for the coming year.

During yesterday's budget briefing, those senior Public Service budget officers were told that there were a number of risks to the government's budget strategy, as outlined in last year's budget. Some of those risks listed by senior Treasury officers were: large cost pressures being brought in by ministers; some evidence that savings expected in the last budget will not be realised; and superannuation investment earnings, as well as one or two others. One officer commented, 'To the extent that savings are not achieved in this financial year, it will mean more difficult budgets in future years.' Another Treasury officer advised the budget officers that, in relation to the proposed carryovers, 'They involve 400 journals for $200 million, so don't be surprised if you don't get all the carryovers that you are requesting.' My questions are:

1. Given that the Treasurer has already had produced in *Hansard* an answer to a question which lists the approved carryovers, is the Treasury officer's statement to budget officers yesterday, 'Don't be surprised if you don't get all the carryovers that you are requesting,' an indication that the list that has been produced by the Treasurer and provided in *Hansard* is a work in progress which does not list concluded decisions by Treasury as to carryovers from the 2002-03 budget into the 2003-04 financial year?

2. The issue of superannuation investment earnings has been raised before, and the mid year budget review showed a $1 billion jump in unfunded superannuation liabilities. I am further advised that a Treasury officer yesterday indicated that the superannuation unfunded liability was 'likely to be a risk going forward'. Does the Treasurer agree with the Treasury officer's assessment that the increase that we have already seen of $1 billion in unfunded superannuation is likely to be increased even further?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those questions to the Treasurer in another place and bring back a reply.

DROUGHT RELIEF

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about environmental drought recovery projects.

Leave granted.

The Hon. CAROLINE SCHAEFER: Last Friday, the federal government announced drought recovery measures that will greatly assist the environmental recovery of drought affected areas, particularly two regions in this state, namely, Venus Bay on Eyre Peninsula and Burra in the Mid North. These grants of up to $30 000 are distributed to community groups to carry out local on-ground environmental work, such as fencing waterways, regeneration of native species and so on. Through measures such as planting native drought resistant species, there is valuable retention of soil and, of course, an increase in stock fodder. It is part of an ongoing drought recovery and restructure scheme.

This type of specific environmental funding has a number of advantages, not the least of which is that the money is channelled directly through local communities, activating those communities and activating the knowledge and expertise which can be gained only by using local people. In light of the exceptional drought conditions that a huge part of this state and, indeed, Australia have experienced, particularly in areas such as Karoonda and surrounding districts, has the state government assisted local communities in the application for and access to federal funds under the Environmental Drought Recovery Projects Scheme?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The commonwealth government might be providing some small grants of up to $30 000 in various parts, and I am pleased for that. However, if one is going to talk about commonwealth contributions to drought, I think that we should note the fact that the commonwealth did not approve exceptional circumstances assistance in the Murray-Mallee region of this state, in spite of the fact that that area must surely have been at least as devastated during the last drought as any other part of this country. That highlights some deficiencies in those commonwealth procedures when dealing with drought in a larger way.

I imagine that the environmental drought recovery projects are handled through my colleague the Minister for Environment and Conservation, who has the Department of Water, Land and Biodiversity Conservation in his portfolio. If he can

provide any information on this specific question, I will bring back a reply.

FILM CENSORSHIP

The Hon. DIANA LAIDLAW: I seek leave to make a statement before asking the Minister for Agriculture, Food and Fisheries, representing the Premier and Minister for the Arts, a question on the subject of film censorship.

Leave granted.

The Hon. DIANA LAIDLAW: Tonight the Premier and Minister for the Arts will open the French Film Festival which, as of late yesterday, will now include the film *Irreversible*. This follows the last-minute reconsideration by the Attorney-General of his decision in January to refuse to give the film an exemption from classification. As far as I am aware, this is now the second occasion in less than 10 months on which the Labor Attorney-General, the Hon. Michael Atkinson, has flirted with censorship of films screened everywhere else in Australia and overseas but not Adelaide. There may be other occasions, as well, of which I am not aware.

In a media release issued on 10 May 2002, the Attorney-General highlighted that, if the film *Baise-Moi* had been brought to his attention earlier following its R18+ classification the previous October, he would have 'ensured it would never be screened in South Australia'. All honourable members will respect that, throughout the western world and possibly beyond, film censorship is regarded as a very serious matter. The Premier and Minister for the Arts must be acutely embarrassed by his Attorney-General's enthusiasm for censorship in film at the very same time that he is committing millions of dollars of South Australian taxpayers' money seeking to establish Adelaide as a base for an international film festival.

Incidentally, the Adelaide International Film Festival, which the Premier is promoting as the biggest in the southern hemisphere and possibly a rival to Cannes, is noteworthy in view of the fact that the film *Irreversible* was shown at the Cannes Film Festival last year without incident. I ask the following questions:

1. Was the Premier and Minister for the Arts consulted prior to the Attorney-General's decision in January this year to refuse to give the film *Irreversible* an exemption from classification and, if not, why not?

2. When did he first learn that the Attorney-General had refused the exemption?

3. At any time since learning of the Attorney-General's decision in January did the Premier or anyone on his behalf seek to influence the Attorney-General to reconsider and reverse his January decision?

4. Does the Premier consider that the current arrangements, both legislative and administrative, as exercised by the Attorney-General are satisfactory, or should they be amended to ensure this government no longer sends mixed messages around the world regarding film culture in this state?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I am sure that this is a subject with which the honourable member can speak with some authority, because we well recall during the term of the last government when the Hon. Trevor Griffin on a number of occasions—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: At least one occasion. What was it: *Sweet Sweetback's Baad Asssss Song*, I think it was called.

Members interjecting:

The Hon. P. HOLLOWAY: Well, it was one occasion.

The Hon. Diana Laidlaw: Don't mislead.

The Hon. P. HOLLOWAY: I would have thought that if anything was misleading it was the honourable member's question. After all, she was trying to suggest that what is happening under this government is something—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: That particular film was prevented—

Members interjecting:

The Hon. P. HOLLOWAY: I will refer to it in a moment but first I will make some comments. I have that luxury and I am going to exercise my right. As I said, I am sure the honourable member would speak with some authority. When she was talking about the Premier being acutely embarrassed, I can only assume that the honourable member is suggesting that she was acutely embarrassed when that film was censored. I read the paper the other day and noted the comment of my colleague the Attorney, who said that all he was seeking was for the film to be correctly classified. That was certainly his comment in the press. On this occasion I think it is very important that we get the facts, and I will ensure that the honourable member—

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Laidlaw will take her punishment in silence.

The Hon. P. HOLLOWAY: I will ensure that on this occasion we do get the facts about what happened in this case. The honourable member said that the Attorney had flirted with censorship, but that would not appear to be the case, if the press reports in the early papers were correct. I will make sure that we get an accurate description of what happened in this case and bring back a reply.

INDIGENOUS ENVIRONMENTAL MANAGEMENT

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister Assisting the Minister for Environment and Conservation a question about indigenous environmental management.

Leave granted.

The Hon. G.E. GAGO: In answer to a question asked of the Minister Assisting the Minister for Environment and Conservation about endangered species, the minister informed the chamber of the work of the Anangu Pitjantjatjara in researching the endangered tjakura giant skink. I am particularly impressed by this model, where Aboriginal people and communities are involved in the conservation of endangered flora and fauna. As the minister indicated, finding additional areas of habitat and tackling the problems that have contributed to its decline is an innovative approach to conserving native species, because it includes the traditional practices and skills of Aboriginal people who live in that area. Given this, my questions are:

1. Will the minister inform the council of any other projects that he is aware of relating to indigenous protection of endangered species?

2. What opportunities does the minister envisage could arise in the area of indigenous economic development and environmental management?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her interest in all matters indigenous and environmental.

The situation in relation to getting the balance right is important, particularly for the next phase of the economic development and environmental protection that this government is committed to in finding employment opportunities for indigenous people throughout the state in areas in which they have a lot of background knowledge through their own cultural identity and heritage.

It is essential to get the balance right between economic development, environmental management and heritage protection. The Port Lincoln Aboriginal Community Council (PLACC) has this dilemma in relation to the Wanilla forest, which is owned and managed by them. The endangered yellow-tailed black cockatoo migrates to the south and feeds in the forest. In the early 1980s there were fewer than 30 birds, and it was reported that there were as few as 19 birds at one particular time. The number has been increasing in the past few years and in 2001 there were up to 24 birds reported—which does not necessarily mean that there were only 24 birds alive in the area. The cockatoos produce only one fledgling per season and it is estimated that there are now 33 birds on Eyre Peninsula.

PLACC is working to re-establish native sources of food such as hakea, yacca, sugar gum and golden wattle. Construction and placement of nesting boxes has taken place with the assistance of CDEP participants. The other issue they have is balancing the presence of Aleppo pines in the area with the cockatoos' nesting and feeding areas. The cockatoos eat the Aleppo pine cones and cause them a lot of damage. As the pines are a bit of a menace on Eyre Peninsula, this means that the birds provide a natural selection process to help us deal with the Aleppo pines.

The Indigenous Land Corporation and the National Heritage Trust have funded this strategy for Aboriginal managed land in South Australia, and this is allowing PLACC to get the balance right and to provide opportunities for employment and to apply for funding.

Since the birds feed from the heart of the forest, PLACC workers are removing the Aleppo pines from the perimeter and replacing them with native shrubs, working their way into the centre of the forest. This will be done over quite a number of years. There is also an historic homestead in a portion of the old growth forest. Assisting to save the yellow-tailed black cockatoo will, in time, provide economic advantages because a big growth in birdwatching and environmental tourism is expected not only on Eyre Peninsula but also across the state, including Kangaroo Island, where a similar sort of problem is also emerging.

GENTICALLY MODIFIED FOOD

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the introduction of GM canola.

Leave granted.

The Hon. IAN GILFILLAN: An ABC media release, which I have in my hand, announced yesterday—which is rather pertinent in relation to the minister's answer yesterday that he was not aware of this:

> An application to allow the commercial release of genetically modified (GM) canola throughout Australia has been approved by the Commonwealth Gene Technology Regulator.
>
> Regulator Dr Sue Meek says after nine months of looking at the proposal, she believes GM canola would pose no risk to human health or the environment
>
> Two companies, Monsanto Australia and Bayer CropScience, are behind the application.
>
> But there will be eight weeks for public submissions before a final decision is made.

It is interesting to line up the two statements, 'has been approved' and 'a final decision is made'. It is somewhat illogical.

I have also a document from the Office of the Gene Technology Regulator entitled 'Application for Licence for Intentional Release of a GMO into the Environment', and it relates exactly to that. It is an application, in this case, of Bayer CropScience, to release canola, and I quote from that document as follows:

> Proposed Location
>
> Potentially all canola growing regions of Australia.
>
> NB The growing of genetically modified food crops in Tasmania would also require approval by the Tasmanian State Government under the Plant Quarantine Act 1997.
>
> Proposed Size of Release
>
> Small scale first year introduction in south-east Australia, up to full commercial release in all canola growing regions.
>
> Proposed date of release—

and I emphasise this, proposed date of release:

> From autumn 2003.

We are already in autumn 2003. Further, I was very interested to see—

The Hon. T.G. Roberts: No sight gags, please.

The Hon. IAN GILFILLAN: I am reading. I saw on a container of Golden Fields Australian Rolled Oats a star and the statement 'GMO free'.

The Hon. J.F. Stefani interjecting:

The Hon. IAN GILFILLAN: This was bought from the Woolworths store in Adelaide a few days ago. It has 'GMO free' on the top. On the back it states, 'Golden Fields oats are GMO free'. There is not yet an application to plant GM oats in Australia. However, both the marketers and the producers of this product, Steric Pty Ltd in Malta Street, Villawood, New South Wales, and Woolworths believe it is important to stamp this product 'GMO free'. My questions are:

1. Does the minister agree that Woolworths has clearly indicated, with the manufacturer Steric Pty Ltd, that the market and consumers are very concerned about GM foods?

2. As a result of that concern internationally, does he agree that, by preserving a GM free status for South Australia, South Australian producers will enjoy a market advantage?

3. Does the minister realise that, unless we in South Australia act immediately, the GM horse will have bolted?

4. As an interim measure, will he support the second reading of my moratorium bill so that we can have legislative restraint in place to prevent the introduction of GM crops into South Australia?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The honourable member did ask me a question yesterday about the decision of the Office of the Gene Technology Regulator in relation to GM canola. I pointed out that the information was that the clock had not restarted. But yesterday the Office of the Gene Technology Regulator did put out a press release entitled 'Gene Technology Regulator releases Bayer GM canola risk management plan for public comment.' I was made aware of that decision when I got back to my office yesterday afternoon. In fact, the press release had been made. It is important that the council understands exactly what is involved here. The press release states:

> The commonwealth Gene Technology Regulator, Dr Sue Meek, today released for public comment a risk assessment and risk management plan for the Bayer CropScience (formerly Aventis)

application to commercially release genetically modified canola throughout Australia. The plan has been released for an extended eight-week period of public scrutiny and comment until 26 May 2003.

I think that is all I need to say in relation to the press release. There is an eight-week period of public scrutiny and comment. In relation to the press release, I have made statements to the media indicating that it is my advice that, given the volume of information that is likely to be received in that eight-week period of public scrutiny and comment, the final decision to be taken by the commonwealth Gene Technology Regulator is likely to be some time after that period, probably late June or early July at the earliest. My advice is that it would be well passed the optimum growing season for most parts of this state.

Even if this decision is ultimately approved after the eight-week period of public scrutiny and subsequent consideration by the technology regulator, given the time, it is not likely that much, if any, GM canola would be planted in this state. In any case, as I have said on other occasions, the indication from the companies concerned is that they would not be seeking to plant GM canola in South Australia in 2003. As I have indicated on other occasions, we have made it clear to the companies that we would not welcome their attempting to commercially grow GM crops in this state. That is the background. I thought I should clear that up before answering the specific questions asked by the honourable member.

The first question asked by the honourable member related to the Woolworths packet. There is no doubt that there is a specific niche market, if you like, for foods that are seen to be clean. I suppose new GM crops come into that category. Certainly, within Europe, there is a market for organic food that is of the order of 10 per cent, and that is a market that I believe this state could do more to tap into, because we have the capacity to produce food for that market (it also includes organic wine, incidentally, and, through my department, we are looking at what opportunities one might have in relation to capturing some of that niche market). There is no doubt that there is a segment of the population, both in this country and overseas, that has some concerns about this issue and, obviously, marketers such as Woolworths are seeking to capture that market. There is no doubt about that.

I think the second question that the honourable member asked referred to that question of market advantage. Of course, in relation to GM canola, one of the complex questions that will have to be answered before any growers plant those crops in Australia, with or without the government's approval, is whether there would, in fact, be a market for those crops; whether there would be any disadvantage in the marketplace—the opposite of a premium, if you like—if they were to plant GM crops.

There is no doubt that the reason that GM canola has been grown extensively in places such as Canada is that there are lower costs of production. However, against that, of course, the farmers will have to trade off any benefit from lower costs of production with any impact they might get through not being able to sell their product on the market or through having to accept a lower price. Of course, that is quite complex. It would be quite a difficult decision for farmers to make, because it is not just a question about what premiums might exist now for non-GM crops; it is also a question about what premiums might exist in the future. As I have pointed out in this council on numerous occasions, it is those market decisions that are the most complex in relation to this whole GM debate. The Gene Technology Regulator said:

The conclusion I have reached from these exhaustive assessments is that this GM canola poses no higher risk to human health and safety or the environment than is currently posed by the farming of conventional, non-genetically modified canola.

But the real issue that we have to face is not those health or environmental considerations but, rather, the market considerations. I would certainly caution anyone within the grains industry to act very carefully before they make any decision in relation to this matter. Clearly, whatever the market might determine at the moment in relation to the attractiveness of GM crops may not, in fact, be the position in the future.

The honourable member then asked whether I would act immediately. As I have indicated, the state at this stage certainly has been looking at its legal options in relation to what we could do should any company seek to introduce GM crops into this state. We have no reason to believe that those companies' indications to us that they do not intend to plant GM crops in this state for at least the 2003 season are incorrect. I wish to put that on the record. However, we have for some time, in fact, been looking with some urgency at what alternatives we have and, certainly, this state will be putting an additional paper to the meeting of the primary industries ministers next week. We have been doing some work in relation to that to try to get a more national approach for dealing with some of these complex issues.

I think the final question asked by the honourable member related to the moratorium. The point that I have made to this council previously is that a moratorium, as such, depending on how it was drafted, would have very little chance of success constitutionally if it were to be challenged. That is the advice that we have. In relation to that I note, when reading through an answer to a question I had on GMs on 25 March, it was reported that I said:

Commonwealth law will prevail over state law if there is a conflict, unless the state law is backed up by some specific head of power in the commonwealth constitution.

Of course, section 51 of the constitution, in fact, outlines specific commonwealth powers. So, I would like to clarify that. I would like to make the following statement in relation to the constitutional position.

Commonwealth law will prevail over state law if there is a direct conflict between them or if the commonwealth parliament has demonstrated (in the terms and by the practical effect of its legislation) that it intends to cover the field of the particular subject matter dealt with by the law. When this occurs, state law dealing with the same subject is inoperative to the extent of its inconsistency. The commonwealth Gene Technology Act regulates and may allow planting of GM crops in South Australia. A state law such as that introduced by the Hon. Ian Gilfillan last year, which prohibited the growing of GM crops in this state, would be inconsistent with commonwealth law. The state prohibition would, as a result, be invalid and inoperative.

One way that we could do it is to declare genetically modified crops a disease under the plant act, as Tasmania has done. That probably would not stand up, but it might well delay it. We are seeking to look at the laws that relate to this area to see whether there are ways in which we can regulate crops which are introduced into this state which may pose a threat to the integrity of existing crops.

I conclude my answer by making one final point. The other issue that we have to be aware of in relation to any action we might take concerns the requirements on all state governments under the World Trade Organisation and under

the various treaties that the commonwealth government has with GATT. Clearly, if we were to—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The honourable member laughs, but if any state were to take action—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: It is not a question of economic rationalism: I would have thought it is more a question of law. If the honourable member had been reading his newspapers, he would be well aware that there are all sorts of issues between the European Union and the United States, and GM issues are significant areas of dispute. In fact, one of the problems that we face in the whole GM area is that we are at grave risk in this country of being caught in the crossfire of the trade war over this issue, because it is being used as a non-tariff trade barrier by the European Union. We run every risk of being caught in that, which is yet another complication in any decision that the farmers of this and other states might make as to whether they grow GM crops—that they might well get caught in this crossfire which has nothing to do with environmental health or other issues but might very well be to do with trade issues. The matter is complicated.

The Hon. Angus Redford should not laugh off world trade issues. If any state were to act in a way that breached its obligations under GATT, even if another state were to do so, it would reflect not only on the national government but on all governments and could, indeed, have impacts on our trade. So, it is important that we act with some caution. That is why, at the primary industries ministers' meeting, if we get the consent of the other states, this state will try to take a leading role in ensuring that we act in a way that is consistent with our obligations to the WTO and under GATT in relation to this area. If we do not, there could be significant down side consequences for this state.

The Hon. IAN GILFILLAN: The minister indicated his expectation that Dr Sue Meek will not make a final determination until July or August, as that would be critical to planting the crop in South Australia. That seems to be guessing the intention of Dr Sue Meek. Can the minister indicate to the council that he has a firm indication from her that she will not make a determination until that stage of the year? If he does not have that determination, will he seek it and share with us what the regulator intends to do?

The Hon. P. HOLLOWAY: I have not spoken to the Gene Technology Regulator since I visited the office last year to obtain a better understanding of how the procedures would work. However, officers of my department have contact with that office. The advice that I have received is, I assume, based on their understanding of how these procedures work. For the benefit of the honourable member, I will ask those officers to contact the Office of the Gene Technology Regulator so I can bring back a more detailed response.

The Hon. NICK XENOPHON: I have a supplementary question. Is not the government's position on the legal and constitutional difficulties it strongly sets out to prevent the introduction of GM crops in this state grossly inconsistent and, indeed, hypocritical when compared with the government's approach on the nuclear dump legislation?

The Hon. P. HOLLOWAY: The approach that this government is taking in relation to GM canola is one of trying to get the best outcome for this state. We are seeking every bit of legal advice we can to come up with a solution that ensures that we do not have the premature introduction of commercial GM crops in this state. Likewise, this government is seeking to ensure that the nuclear waste from the rest of the country is not dumped in this state, and we are looking at whatever we can do within the laws available to ensure that does not happen either.

The Hon. J.F. STEFANI: I have a further supplementary question. Given that the New South Wales, Tasmanian and Western Australian governments have moved to ban the production of GM foods and crops, will the minister enlist the help of other states to enable South Australia to follow suit?

The Hon. P. HOLLOWAY: The role that South Australia would like to play at the primary industries ministers' meeting is to do just that: to get cooperation from the other states for some uniform approach to ensure that any regulation of GM crops is consistent with WTO obligations and with the constitutional powers of the state as they apply under the Commonwealth-State arrangements. We are trying to work with those states.

The honourable member said that New South Wales has moved to ban GM crops, but he needs to understand that the New South Wales government has simply made a promise at this stage. We have not seen the specifics of the legislation. As I have indicated in this council before, officers from the South Australian department are cooperating with officers of all the other states to see how those states are tackling this issue. Quite clearly there are some restrictions on the powers of the states and, if any of the other states are able to come up with a way that effectively regulates this issue, we will not be too proud to learn from them. I suspect that this state is more advanced, if I can put it that way, than most other states in considering the issues that apply in regulating GM crops.

GAMBLING, LOYALTY PROGRAMS

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Gambling, a question about poker machine loyalty schemes and, in particular, the J Card scheme.

Leave granted.

The Hon. NICK XENOPHON: In April last year, I publicly raised the issue of the J Card poker machine loyalty scheme and the benefits that were available at a Taperoo deli. I refer to a letter from the Heads of Christian Churches Gambling Task Force, as quoted in its submission to the Independent Gambling Authority in December 2002 in relation to codes of practice, as follows:

> Specifically we are concerned about the apparent link between the purchasing of 'the basics of life' and gambling. The linking of the purchase of food, clothes, paying for rent and utilities with promotions that encourage gambling are, in our opinion, contrary to responsible codes of practice.
>
> Of further concern with this trial are issues relating to young people and the potential for them to accrue points on a loyalty card, at a deli, that can then be used for gambling.
>
> Even though young people are not allowed, by law, to use EGMs until 18 years of age, the added incentive to gamble using deli derived credits, coupled with the history of age limits to not be vigorously enforced in some venues has the potential to encourage minors to gamble. We are also concerned that any promotion that links buying basics and the payment of bills with gambling sends inappropriate messages to young people.
>
> We believe that the Independent Gambling Authority needs to review the reported trial of the provision of Jackpot card credits for the purchase of goods at a deli. We also believe that a broader review of gambling related loyalty schemes is required to determine whether these schemes contribute to gambling related harm.

The then Minister for Gambling (Hon. John Hill), in response to a question put to him on 13 May 2002 with respect to loyalty schemes, stated:

> Some other schemes are proposed which go across venues. In particular, a scheme referred to in the press a couple of months ago involves a delicatessen in the western suburbs having a card which would allow customers of the deli to purchase goods to obtain points which could then be transferred in a hotel for gaming credits or for cash which could be used for gaming purposes. I was very concerned about that particular form of loyalty program. The first forms are reasonably benign in that they are kept within particular premises, but a form of loyalty program which is spread outside hotels and into places where people buy food could be seen as something which would encourage people into gambling who hitherto had not gambled.
>
> I have asked the Independent Gaming Authority to look at all the loyalty card schemes, in particular, to look at that form of loyalty card to see whether or not it is appropriate to be in operation.

The minister went on to say:

> The IGA (Independent Gambling Authority) will be looking at this and developing a code of conduct, as is its duty. It is not up to me to make these decisions: it is up to the IGA to have a look at this to properly consult with the community. But I can give an indication to the house that the company involved has written to me and said that it will not be using the scheme that it has proposed (this is the J card loyalty system). I have had a meeting with its representatives, and they have undertaken to me that, in their development of this scheme—

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: I've nearly finished: sorry. It continues:

> . . . until the IGA has come down with a set of recommendations, they will not be using this card to allow people in delicatessens or outside of hotels to gain points that can then be used to obtain money to use for gambling. So, that aspect of this particular loyalty system will not extended until the IGA has come down with its considerations.

The Heads of Christian Churches task force, in its submission to the Independent Gambling Authority, indicated that it again wrote to the IGA in October last year, stating:

> Our first concern relates to similar advertisements for 'J card' placed in the Advertiser on Tuesday 15 October and Tuesday 22 October. Copies are attached for your reference. The large advertisements encourage people to use the 'J Card' at specified delicatessens, Pizza Haven outlets, Movieland and Ultratune. It is known that 'J Card' is also associated with the accumulation of 'rewards' points that can be gambled on poker machines.

My questions to the minister are:

1. Will he provide details of the undertaking previously given by the J card scheme to the previous minister for gambling?

2. Does he consider that there has been a breach of the undertaking, given the matters raised by the Heads of Christian Churches gambling task force?

3. What progress is there into the Independent Gambling Authority's inquiry into loyalty schemes? When does it expect to hand down a report?

4. Does the minister share the concerns expressed by the former minister for gambling in relation to such loyalty schemes?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I wrote the questions down but I did not get all the explanation: could we start again? I will refer those very important questions and the explanation to the minister in another place and bring back a reply.

ABORIGINES, CORRECTIONAL SERVICES

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about Aboriginal justice.

Leave granted.

The Hon. R.D. LAWSON: On 28 February Mr Justice Gray in the Supreme Court handed down a judgment in the case of the Queen v Scobie. Mr Scobie is a traditional Pitjantjatjara man with a lengthy criminal history, and an application was made by the crown under section 23 of the Criminal Law (Sentencing) Act to have Mr Scobie detained until further order on the ground that he could not control his sexual instincts. Justice Gray heard that application over 30 separate days, during the course of which Scobie encountered the South Australian criminal justice system and correctional system as an Aboriginal person. A report was tendered to the judge from the Justice Strategy Unit of the government which stated:

> The case of R v. . . Scobie highlights a number of difficulties with regard to the respective roles and responsibilities of the Department for Correctional Services. . . and the Department of Human Services. . . relating to the provision of treatment and services for an offender pursuant to a Court order.
>
> The case also raises further questions about the capacity of DCS, DHS, Aboriginal communities and the non-Government sector to provide services and support for offenders with exceptional needs on the Anangu Pitjantjatjara Lands.
>
> It further highlights that access to and nature and availability of therapeutic services are limited and problematic and such services further constrained in scope by provision within existing memoranda of understanding.

The judgment of Justice Gray is a lengthy catalogue of the difficulties of appropriately sentencing an offender in the circumstances of this particular case. There are many comments about inadequacy of services and the difficulties of providing appropriate judicial responses to offenders.

Mention was made of the Royal Commission into Aboriginal Deaths in Custody, and the judge commented:

> The full range of sentencing options only became available to the court after considerable effort and perseverance. It is probable that Mr Scobie would have spent less time in custody and that his rehabilitation would have progressed more rapidly if protocols facilitating compliance with the recommendations [of the royal commission occurred] as a matter of course, rather than on an ad hoc basis.

This judgment, which was provided to me by my colleague the Hon. Angus Redford, bears close scrutiny. My questions to the minister are:

1. Has the judgment of Justice Gray been brought to his attention?

2. What action has he taken to obtain improvements in the provision of Correctional Services to offenders from the Anangu Pitjantjatjara lands?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his very important question and for mentioning the issues raised by Justice Gray, although I am not familiar with the case nor the findings or recommendations. As the honourable member said in his—

The Hon. Diana Laidlaw: Would you read the judgment if we gave you a copy?

The Hon. T.G. ROBERTS: I would read the relevant parts associated with my portfolio area, and any other relevant pieces. The issues that the honourable member raised are important, in particular in relation to the AP lands, because not only is there an absence of what we would regard

as rights in relation to human services and infrastructure but also the administration of justice suffers in the absence of a full range of options for sentencing prisoners for breaches of the law in relation to, for instance, petrol sniffing and domestic violence. There are a number of other breaches of the law where sentencing options are difficult for judges to take into account because of the absence of many of these options when dealing with a case in an isolated region such as the AP lands, as opposed to dealing with a case using the sentencing options that are available in the metropolitan area or even a large regional centre such as Port Augusta.

The AP lands, in particular, and the areas around Yalata and Oodnadatta are very isolated in geographical terms and they are a bit like frontiers in relation to how the justice system can and should work. I know that, in the past, many magistrates have written into their judgments that it is difficult to make recommendations for isolation or incarceration for short periods for petrol sniffers because there are no appropriate facilities on the lands, which is quite a large section of our state, to deal with those people who suffer from health problems associated with petrol sniffing and who have breached the law in other ways.

There are multiple cases where the law has been broken, either by offending against other sections of the act or self harm in relation to petrol sniffing, and where magistrates have thrown up their hands and said that there are no appropriate sentencing options and, therefore, record a conviction but make no recommendation for incarceration or sentencing. Alice Springs is probably the nearest centre for those sorts of options to be part of a sentencing procedure, but Alice Springs is 500 or 600 kilometres from some of those centres.

I understand the importance of the question. I thank both members for raising the issues associated with Justice Gray's determination and recommendations. The first question related to whether the matter had been drawn to my attention. It had not been—until now. The second question related to whether I would work to provide services through the budget deliberations in relation to obtaining improvements. That is a commitment I have given the Anangu Pitjantjatjara people in relation to a range of service areas, including justice and corrections, where a corrections facility might be of benefit in dealing with the worst aspects of some of the law breaking that is occurring on the lands. We are dealing with that issue and trying to put together some options for isolation from communities.

Communities are recommending that the worst violent offenders be separated from their community but be adjacent to the community so that visits can be arranged and family support provided to rehabilitate offenders. At the moment the situation is not appropriate. Young AP offenders are taken out of their communities and incarcerated in gaols, such as Port Augusta Gaol or Alice Springs Gaol. It is not a suitable way of dealing with law breakers in that area and we are trying to deal with it. I thank members for their interest.

MINISTERIAL RESPONSIBILITY

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about ministerial responsibility.

Leave granted.

The Hon. A.J. REDFORD: On Monday I asked a question of the Minister Assisting the Minister for Environment and Conservation regarding his responsibilities, and, further, whether he agreed with the proposition that he had a responsibility to check information provided to him by the Minister for Environment and Conservation. He did not answer either of my questions.

The Hon. T.G. Roberts: I answered them!

The Hon. A.J. REDFORD: Well, you spoke. It is interesting to note that the Premier, in his capacity as Minister for the Arts, has actually defined the role for the Minister Assisting the Minister for the Arts when, in answer to a question from the Hon. Di Laidlaw on 3 June last year, he said:

> The minister assisting the Premier in the arts has responsibility for specific arts organisations. They are:
> State Theatre, SA Youth Arts Board (Carclew), History Trust of SA, Windmill, State Library of SA, Adelaide Symphony Orchestra and Country Arts SA.

Why the ministers for the arts can come to some arrangement and tell the public who is responsible for what, and the ministers for the environment cannot, is beyond me. Indeed, during the debate on nuclear waste, the minister described his role as follows:

> I am the minister carrying the bill and have responsibility for it in this council. . .

Whatever that might mean. On Monday, the *Advertiser* said, in relation to the Minister for Environment and Conservation, a man who has admitted misleading parliament, that he criticised the opposition for holding onto the relevant briefing note. The article quoted the minister as follows:

> . . . if it was so important, why didn't he let the upper house have it when they were considering the bill?

He went on and alleged that the document was not given to the upper house. Mr President, as you would be well aware, because you do read your documents and listen to the debate, the document was referred to and a substantial proportion was read into *Hansard* by me. In that respect, I draw honourable members' attention to page 1912 of *Hansard* of 19 March. So, what we have is a minister assisting in the Legislative Council who quietly sits back and lets the principal minister consistently make inaccurate statements to the media. In the light of this, my questions are:

1. Why has the minister not been given specific responsibilities in the environment portfolio in the same manner as the Premier did with the minister assisting in the arts?

2. Why has the minister not taken steps to correct the statements made to the *Advertiser* by the Minister for Environment and Conservation?

3. Given the minister's confession last Thursday that he misled parliament because he had not read his briefs, will the minister check all statements made by him in reliance upon the minister's advice in relation to the nuclear waste debate, and advise us of any inaccuracies?

4. Will the minister undertake to check minister Hill's statements as a matter of urgency?

5. Can we assume, in the absence of any corrections, that any obvious misleading statement made by the minister has been so done deliberately?

6. What is the difference in responsibility between 'a minister carrying the bill' and a minister actually responsible or, alternatively, 'a minister carrying the bill' and a minister assisting?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his wide ranging questions. In relation to the last question, it has been tradition, since ministers have been appointed to this council, for ministers to carry the business of the

legislation from the other house up here, as far as I am aware—and that applies to both major parties. Both major parties have appointed ministers with their own portfolios, and they are ministers with responsibilities for other portfolios. I understand the honourable member's question to be why I have not checked in relation to the responses given by another minister in another place on particular issues or statements made in the media.

It is the role and responsibility of the minister, in his role and function as principal minister carrying the full responsibility for the ministry on behalf of the government, on behalf of the people of South Australia, to provide that information in the way in which he sees fit. I have not interfered with any of the statements, or cross checked—

The Hon. A.J. Redford: What about his statement in the 'tiser on Monday when he said that he hadn't dealt with that document?

The PRESIDENT: Order! It is not a debate.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: One of the things you can accuse me of is not reading the *Advertiser*. You can accuse me of that every day. If you ask me what daily papers I read, one of them is the *Australian*, the other is the *Age*, and I speed read the *Advertiser*, and there are some things that I do miss, I will admit. But I cannot be accused of misleading parliament if I do not read the *Advertiser*.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: The honourable member asked the question as to why I am not a good, supportive minister for the minister in allowing him to get into the difficulties that he has got himself into in relation to the accusations made by the opposition in another place. In response, I will say that the minister will be vindicated by his position in relation to the investigations taking place. I have no doubt about that, because he did make an apology straight after he found that he was—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: He was not deliberately misleading parliament.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: He gave a response to the parliament, which will be checked and corrected by the committee. I understand that that will be done ASAP. In view of the time, I thank the honourable member for his question and hope that that satisfies his thirst for the truth.

MATTERS OF INTEREST

FARMHAND DROUGHT RELIEF APPEAL

The Hon. CARMEL ZOLLO: I was pleased to represent the Premier at a luncheon last month at Red Cross House. It was organised by the South Australian division of Red Cross to thank the major sponsors for the Farmhand Drought Relief Appeal. The luncheon was hosted by the Divisional Chairman, Rod Martin, and the Executive Director, Dale Cleaver. Lady Joan Neal was also present in her capacity as one of the board members. The occasion was also an opportunity to provide an update on the appeal and the assistance provided to South Australians.

The Farmhand Foundation was established by a group of prominent Australian business people to bring urgent assistance to primary producers and farming contractors affected by drought across Australia, and an appeal was launched in early October last year. Red Cross partnered the foundation in taking responsibility to disburse the donated funds to those most in need. A drought relief committee was established in each state by Red Cross to advise and assist them in the distribution of the available funds.

As part of the state government's $5 million drought assistance package, the Premier contributed $200 000 to the national Farmhand Appeal. The South Australian committee comprised representatives of the SA Farmers Federation, rural counselling services, the LGA, the Premier's office, the Department of Human Services and PIRSA. Thousands of South Australians, along with other Australians, contributed to the drought relief appeal. Thanks to their generosity, the Australian Red Cross has been able to distribute nearly $20 million to some 15 000 farming families across Australia since applications closed in November.

In South Australia, over half a million dollars has been distributed to 360 families. The families were divided into three categories of hardship, with the areas that received the majority of the funds being the Murray-Mallee, the pastoral zone, the Upper North and Eyre Peninsula. The drought from which parts of Australia and South Australia are still suffering is the worst in 100 years. Speaking at a South Australian Farmers Federation AGM and Drought Buster Barbecue last weekend, minister Holloway reminded us that, while the drought was not yet over, there were some positive signs for the future. We would all agree with the SA Executive Director of Australian Red Cross, Mr Dale Cleaver, that the generosity of individuals and South Australian business during the time of most need was heartening.

As honourable members would be aware, March was also Red Cross Calling month. The Premier officially launched Red Cross Calling at the end of February, when he presented a cheque for $5 500 on behalf of the South Australian government to collectors, Australian basketballer Rachel Sporn and Port Power footballer Adam Kingsley. I understand that more than 14 000 volunteers called on homes across the state throughout March. The appeal will enable the ongoing provision of local services, including those available to assist in times of natural or human made disasters.

The lunch conversation was also a timely reminder of the many works of the Australian Red Cross nationally and internationally. I must admit that I have always thought in terms of the bigger picture when it comes to the Red Cross, namely, its presence in times of war, drought, flood and fire, Bali being a more recent example. However, we should not forget that its presence is very much felt in the lives of many Australians on a daily basis, ranging from the provision and fitting of Australian Red Cross baby capsules to making it possible for thousands of South Australians to live more independently by offering a wide range of products and services through its safety stores—items such as wheelchairs and crutches.

In addition, Red Cross provides a wide range of services to young, disabled, frail, elderly and isolated people in the community. The delivery of education and information programs is also an important part of the work of the Red Cross. I know that I am joined by everyone in commending

the many people who make possible the good works of the Australian Red Cross, and I remind members not to hesitate to contact the Adelaide division to obtain any information and assistance to keep our constituents informed of those works.

AUSTRALIAN SUBMARINE CORPORATION

The Hon. DIANA LAIDLAW: Last week, at the Garden Island fleet base south of Perth, the sixth and final Collins class submarine was commissioned and has now entered service in the Royal Australian Navy. Like all the earlier submarines, *HMAS Rankin* was built in Adelaide by the Australian Submarine Corporation (ASC). When the contract for the design and construction of the submarines was signed by the former federal Labor government on 3 June 1987, it represented the largest defence contract ever signed in Australian history. The decision to build the submarines in Australia at Outer Harbor also represented a welcome exception to our big ticket defence purchases. Equally laudable was that, from the outset, this project involved a much broader agenda with an eye to the future: (1) to establish in Australia the capability to support the submarine fleet through its life; (2) to provide a catalyst to enhance Australian industry capability and quality standards generally; and (3) to use the opportunity to enhance activity in the Australian manufacturing industry.

Without exception, the submarine project has excelled on all these counts, and Adelaide, in particular, has profited. For instance, the ASC was contracted to commit to a local content level of 70 per cent for the project with 45 per cent for the combat system. To date, about 35 per cent of the Australian content has been spent directly in South Australia (much higher than anticipated initially), representing an amazing injection of capital into our local economy and the creation of jobs among contractors. Meanwhile, ASC continues to employ 928 people—789 at Outer Harbor and 139 in Western Australia. Just under half this number is categorised as 'higher end' skilled employees: engineers, naval architects, project managers and foremen, specialist and technical based. Together they produce work of the highest quality, gaining ASC quality accreditation of ISO 9001. The ASC is also generally regarded as providing the best shipbuilding and repair facilities in Australia and includes the largest under-cover ship construction hall in Australia and among the largest ship lifts for the launching and recovery of submarines and other vessels. Too little attention and praise is given to these facts whenever any issue is raised regarding the submarine project.

About a fortnight ago, I visited the ASC for the first time since I attended the launch of the first submarine, *HMAS Collins*, on 29 August 1993. Everything I saw and heard was impressive, and I thank the Deputy CEO, Mr Ross Milton, and the Works Manager, Mr Robert Lemonius, for all the time they devoted to answering all my questions and for permitting me to inspect the work being undertaken to refit, as per contract terms, the *HMAS Farncomb.*

Overall, it was awesome to appreciate the responsibility of everybody working on the refit to ensure that every washer, every wire, every nut and bolt and all the complex computer and combat equipment were all in perfect working order. Everybody understood that the lives and wellbeing of all 55 crew living and working on the submarines, plus their extended family, depended on their diligence and competence. For me, it was also sobering to reflect at this time when Australia is at war on the amazing bond of trust that must exist between the ASC work force and our Navy personnel.

Certainly, I wish that the critics of the submarine project would absorb a little of this level of respect for the enterprise and excellence that the ASC demonstrates every day. For instance, if the former minister for defence, Mr John Moore, had ever bothered to visit the ASC, it is possible that he would have learnt that the welds that he is now so allegedly worried about were never undertaken in Australia but in Sweden and that they would be fixed as part of the ASC's contracted refit program now under way. Meanwhile, according to the current Minister for Defence (Senator Robert Hill), all the submarines proved to be 'exceptionally reliable' in operational work last year.

Overall, it is not before time that the critics take a reality check. From the very beginning, the prototype submarines were an ambitious project involving a high degree of risk. Never before had industry in Australia attempted to build a submarine, let alone one of the technical complexity of the Collins. When all these factors are considered in combination with all the political pressures and the bureaucratic agendas this project has had to endure, it is little wonder that the submarines have experienced teething problems.

Hopefully, now it is full steam ahead for the ASC and its work force. Certainly, there is room for expansion at the Outer Harbor site, a fact that I trust the federal government, as the sole owner of ASC, will use to our nation's advantage when negotiating the sale of the ASC and the rationalisation of the Australian defence shipbuilding industry.

ACCESSIBLE FAMILY ZOO DAY

The Hon. G.E. GAGO: Recently, I was delighted to represent the Minister for Social Justice (Hon. Stephanie Key) at the official launch of the 2003 United Water-Adelaide Zoo Accessible Family Zoo Day. This was third year of the Accessible Family Zoo Day, which was inspired by members of the Paraplegic and Quadriplegic Association of South Australia (PQA) who had told their organisation that they had not been to the zoo since the accidents that had caused their debilitating injury.

The clients of the PQA have physical and multiple disabilities, resulting in loss of function of two or more limbs, and might require the use of a wheelchair or similar mobility aid. The PQA is devoted to supporting and advancing the welfare of those with disabilities. It goes about doing this in a way that recognises and acknowledges these people's fundamental worth and dignity, their right to experience life events and to reach their full potential.

The PQA carries out a number of functions, including providing a range of programs for home support, education, recreation and general wellbeing, which respond to the requirements of people with disabilities. Other functions of the organisation include lobbying and advocating for community access and other issues concerning people with disabilities. Although the zoo days are coordinated by the PQA, they are achieved through the collaboration of a number of government and non-government organisations.

The Adelaide Zoo generally sets a special entry fee of $6 for people with a disability and free entry for carers. This ensured that those with a disability had the one-on-one support they require without having to wear the burden of their carer's fee. A financial contribution was made by the social justice and country division of the Department of Human Services to help cover the costs of the days. Adelaide

Metro ensured that the maximum number of wheelchair accessible buses were available on major routes, and Access Cabs and taxis participated in transporting people to and from events. Last, but certainly not least, United Water has generously sponsored the event over the past three years and during this time has contributed over $20 000 to cover the costs of the event—a remarkable contribution.

PQA invited all disability organisations to join in and share the celebrations of zoo days. Other disability organisations that participated in the event included the Crippled Children's Association. It is very fitting that members of the PQA have chosen to sponsor the free-flying macaws at the Adelaide Zoo for the past two years. The blue and gold feathers of these parrots are the colours of the PQA. The birds are released and allowed to fly free for half an hour each day. Their freedom acts, obviously, as a symbol for the members of the PQA—a potent and evocative symbol of freedom of movement, the ultimate ideal for people who have suffered trauma through spinal injury.

There are many issues in relation to access for those with paraplegia or quadriplegia, including access to equipment to help them to carry out activities of daily living; support for themselves and their carers; transport; and, of course, physical access to buildings and venues. The cost of attending places often doubles (sometimes even more) as individual carers must also go along. The individual with mobility problems may not be able to access a venue even if they are able to access transport. These are all potentially limiting factors, making the logistics of attending places and enjoying activities much more difficult, and sometimes impossible, for those with a disability.

However, with the collaboration and coordination of a number of different organisations, both government and non-government, it is quite remarkable what can be achieved to improve access for this group of people to attend a range of activities and functions. The United Water-Adelaide Zoo Accessible Family Zoo Days are an excellent example of this. It was a fantastic day and it is fairly safe to say that all those who attended had a really wonderful time. I wish to congratulate and thank all those who were involved, especially the Paraplegic and Quadriplegic Association of South Australia.

COFFIN BAY NATIONAL PARK PONIES

The Hon. CAROLINE SCHAEFER: I speak briefly today on the plight of the Coffin Bay ponies. When I grew up on Eyre Peninsula, one of the great things was that children and smaller adults had access to cheap ponies which they learnt to ride on. It was a time-honoured process that the ponies would be mustered every couple of years or so and could be bought very cheaply, the money going to the local hospital board. They were magnificent little ponies in that they were almost all quite athletic, very tough, very intelligent and very good natured. Many of them were not beautiful.

However, they have been part of Eyre Peninsula's heritage and history, perhaps mythology, since at least 1847, and perhaps prior to that. They are believed to be descended from the Timor ponies and to have landed with the first European settlers in that area. They were certainly in the Coffin Bay area well in advance of the land being settled by Mr William Mortlock in 1856. Mr Mortlock decided that the ponies were becoming inbred, so he set about a structured breeding program to keep the ponies healthy and well bred. As I say, they have been part of Eyre Peninsula's heritage all that time.

After the Coffin Bay area was purchased as a park in the 1970s, the Coffin Bay Pony Preservation Society agreed to manage the ponies. At that time, they had bred up and they were again becoming inbred. A group of volunteers who formed that society culled the ponies, took out all the aged ponies and all the stallions and, at their own expense, introduced a stallion so that there was no inbreeding. Since that time, the ponies have been very well managed. Only 20 mares are allowed in the park at any time, and each year those ponies are mustered and most of the yearlings are sold at auction for further financing the work of the preservation society. Some of the ponies are left until they are two-year olds, and both the yearlings and the two-year olds are used for training in horse handling courses, so they have a very practical use.

The people in the area are very proud of the way they have managed the environment in a sustainable fashion and quite a lot of fencing has taken place. As I say, the ponies have been well managed and this has been done on a voluntary basis.

The Hon. Diana Laidlaw: The volunteers built the fences?

The Hon. CAROLINE SCHAEFER: Yes, far more cheaply than any national parks group would usually do it and far more cheaply than the taxpayer would be prepared to do it. There is a myth that the Coffin Bay National Park is a wilderness area. It is well known that it was heavily grazed until the late 1970s. There are reports of up to 10 000 sheep running in that area. There is no way that it is a wilderness area, nor will it ever be. It is infested with rabbits and various types of introduced European weeds. I venture to say that the Coffin Bay ponies do considerably less damage and are better managed than any of the other pests in the region.

Yet this government has decided to dispense with the ponies and move them to another area, which is infested with Salvation Jane. You, sir, would know that that will inevitably kill the ponies. It will give them liver disease and they will die a painful death. I believe that this government has been ill-informed at best, and I plead with minister Hill to reconsider the real attributes of this situation and reassess his current actions.

FAMILY AND YOUTH SERVICES

The Hon. KATE REYNOLDS: Family and Youth Services is the statutory authority with responsibility for the protection of children. On 21 August last year my colleague the Hon. Sandra Kanck spoke in this place about a 17-year old girl, Jacquie Wood, who committed suicide while in the care of the minister.

After nearly four decades as a foster parent, foster parent A relinquished her role as a carer because of continual hounding by the FAYS Enfield office staff about her care of Jacquie, despite her repeated request for specialist help. Foster mother B, who had successfully fostered 31 children previously, eventually asked for the girl's placement to be cancelled because this family also felt unable to cope with Jacquie's complex emotional and behavioural problems, and also felt unsupported by FAYS Enfield office.

Some time later, when the girl asked to be returned to foster family B, a request that was declined, she made allegations of sexual abuse against foster father B. Although the man was never interviewed he was charged with unlawful sexual intercourse. Medical evidence later showed the man to be physically incapable of such an act. After realising the

serious implications of her claims, Jacquie then made numerous unsuccessful attempts through FAYS staff and the police to retract her allegations. Only after this girl committed suicide were the charges against foster father B dropped. In the meantime, foster family B was deregistered as foster parents, and foster mother A is still attempting to clear her name.

Both families have suffered significant and debilitating anxiety, anguish, grief and subsequent ill health as a result of their stressful experiences with the child protection system and, in particular, with FAYS Enfield staff. The circumstances of Jacquie's death are currently the subject of a coronial investigation, and may become the subject of a coronial inquest. I note the acknowledgment by the minister yesterday that the current arrangement for foster carers to make complaints against FAYS lacks transparency and independence, with FAYS both investigating and reviewing its own decisions.

The families affected by the tragic and, in my view, preventable death of a 17-year old girl in the guardianship of the minister are still suffering as a result of their experiences and are still unable to have their names cleared. They were not reluctant or resistant foster families. They were simply families unable to cope with a child with very complex problems.

Regardless of the outcome of the coronial investigation, we believe that the minister should, as a matter of urgency, initiate an independent investigation into the conduct of the FAYS Enfield office in relation to its mandated care of Jacquie Wood while she was under the guardianship of the minister, including an investigation of whether or not FAYS Enfield complied with all the agency's protocols, guidelines, policies and procedures.

In relation to its dealings with foster mother A and foster family B, we believe that the minister should also investigate whether or not the FAYS Enfield office complied with the appropriate protocols, guidelines, policies and procedures. We will be asking the minister to meet with the two foster families and their advocates to hear first-hand of their experiences and to hear their specific grievances.

If as a result of the independent investigation it is found that FAYS Enfield staff acted inappropriately, we expect the minister to ensure that appropriate disciplinary action is taken. We also expect the minister to ensure that all necessary action is taken to clear the names of both foster families.

The Hon. DIANA LAIDLAW: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

COUNTRY PRESS ASSOCIATION AWARDS

The Hon. J.S.L. DAWKINS: I recently had the honour of judging entries in the Country Press Association's awards for best community involvement in 2002. For the second successive year it was a pleasure to be involved with the Country Press Association in recognising the strong links between country newspapers and the communities they serve. I commend all 15 newspapers that took the time to detail the special effort taken to assist the community. The entries included many examples of the local press knowing its area and tapping into a particular issue or cause with appropriate publicity and editorial support.

Such involvement in community projects and the promotion of goals and achievements results in the distinct feeling of ownership that readers have towards their local newspaper. Regional newspapers can do a great deal to foster local pride and aspirations, and this is particularly reflected in the entries of six newspapers. Three newspapers received a high commendation: first, the *Katherine Times*. This newspaper committed itself to assisting the Katherine community in marking the sixtieth anniversary of the bombing of the town.

The Courier at Mount Barker ran a concise but eye-catching feature entitled 'Drinking versus driving' prior to a long weekend, and *The Leader* at Angaston focused on community concern about the tree disease known as Mundulla yellows. That resulted in *The Leader* developing an awareness campaign that featured a series of informative articles on the subject. Third place went to the *Transcontinental* at Port Augusta. This entry demonstrated the strong support by the *Transcontinental* for the extension of the Pichi Richi railway, which originally ran from Quorn to Woolshed Flat, into Port Augusta.

Just when the project was completed and the historic train seemed set to roll back into Port Augusta, a huge hike in the public liability premium threatened to halt the operation. Once again, the *Trans* helped to spearhead community initiatives to overcome this hurdle and ensure that the Pichi Richi puffs its way right into Port Augusta.

Second place was awarded to the *Whyalla News*. The *Whyalla News* gave prominence to the plight of 10 year old twin sisters who suffer from congenital muscular dystrophy and are wheelchair bound. The paper focused on the extreme difficulty that the girls' mother had in attempting to transport them to school and other activities in and around Whyalla. The *Whyalla News* 'Twins van appeal' provided an avenue for the community to come together to support this family. The appeal raised around $30 000, enabling a special van to be purchased.

First place was awarded to the *Loxton News*. The *Loxton News* responded strongly to a major local fundraising drive initiated by the board of the Loxton Hospital. The paper publicised the broad outline of the board's request to raise $500 000 from the local community over three years for a major redevelopment program. The paper then respected the board's desire that the first phase of fundraising be conducted without further publicity. However, after this phase secured pledges for over half the target, the *Loxton News* developed a positive editorial campaign, which encouraged further local financial contributions.

Indeed, the paper harnessed community pride and spirit, which is well-known in many rural areas and particularly evident at Loxton. I congratulate *The Courier* at Mount Barker for winning the country press award for papers with circulations of over 5 000 and the *Northern Argus* at Clare for winning the circulation under 5 000 award. I also commend the Country Press Association for the work that it does to honour good work by its member newspapers.

Time expired.

ENVIRONMENT AND CONSERVATION MINISTER

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

That this council notes with concern claims by the Minister for Environment and Conservation (Hon. J.D. Hill) that he did not read key documents, briefing notes, letters and answers to parliamentary questions on the nuclear waste repository issue prior to making misleading statements to the parliament.

In speaking to this motion, events are moving quickly both publicly and in another place, and I will refer to some of those in a moment. In addressing this issue of the position of the minister and his claim that he has not misled the parliament in relation to this issue of a nuclear waste repository, I was minded to return to the approach of the government when in opposition, when issues of misleading parliament and ministerial competence arose, as to what was the attitude of the current member for Ramsay and the current member for Port Adelaide, Mr Rann and Mr Foley, and what attitude they had expressed on previous occasions.

Amongst many press clippings and radio transcripts my attention was drawn to a headline in the *Sunday Mail* in 1998 in relation to claims made by the Labor opposition about minister Ingerson regarding the write-down of particular ETSA assets and the issue that the opposition was pursuing at the time. Without going into all the detail, because that does not serve the purpose of this debate, the quote that drew my attention is from the now Deputy Premier, the member for Port Adelaide, and he said:

> We have already established beyond any doubt that Graham Ingerson has either misled Parliament or is out-and-out incompetent. Either way, the Premier should sack him.

I will return to that quote from the member for Port Adelaide later in my contribution because I, indeed, will address the issue today of whether or not one believes the story of the Minister for Environment as to whether he did or did not deliberately mislead the house. But, either way, the member for Port Adelaide succinctly summarised his views when he was in opposition and that is a fair summary of my views and the opposition's views in relation to the Minister for Environment.

If one were to accept the Minister for Environment's story, the only alternative course open to anyone—to any premier who wants to lead a government that has promised to be open, honest, accountable, transparent and all those other wonderful virtues he proclaims for himself and the government—would be to terminate the appointment of the Minister for Environment for either negligence or out-and-out incompetence. As has been demonstrated in another place—and I will put it on the record in this place—this minister had more opportunities than any previous minister to correct the record, to truthfully inform the parliament or, indeed, if one accepts the minister's view of the world, at least act in a competent manner as a minister and properly inform himself about what he and his Premier have claimed was one of the most important issues not only to them personally but also to their government.

It was one of their priority issues. It was not a relatively minor or insignificant issue that many ministers would be unaware of within their portfolios. This was one of the focused arguments that the former opposition put prior to the election campaign and, in the first 12 months, the Premier, the minister and other ministers have returned to this particular issue on a constant basis. So it is not an insignificant issue and it is not a minor issue. It is one that they saw as essential to what they were about as a new government. If one accepts the view of the minister—and certainly I do not—that he did not read and properly inform himself, he has demonstrated that he has been negligent and is out-and-out incompetent (to use the words of the member for Port Adelaide) and, indeed, if the Premier had any gumption, he would relieve him of his portfolio.

What we have seen in the other place today is, in my view, an absolute disgrace. I am informed that we have seen a report from the parliamentary Privileges Committee which is an out-and-out cover-up of the events that relate to the allegations concerning the Minister for Environment's misleading the parliament. It is clear that, right from the word go, the Premier and the two Labor members on the committee (the Minister for Emergency Services and the Attorney-General) had only one objective in mind when they were forced kicking and screaming into establishing this particular privileges committee and that was that they were intent on closing it down, on covering up and on ensuring that in no way could the truth be revealed in relation to the minister's actions on this particular issue.

The Hon. Diana Laidlaw interjecting:

The Hon. R.K. Sneath: They supported it.

The Hon. R.I. LUCAS: The Hon. Mr Sneath says that they supported it, and I will turn to this claim now. This is a claim made by the Minister for Emergency Services (the member for Elder) whereby he has asserted previously—and again today, I understand—that there has never been a time in this place when a government has accepted a privileges committee of its own volition when it could have knocked it off. That is just not true. The government did not have the numbers to stop the privileges committee. The member for Fisher went on the public record prior to Monday morning indicating his support for a privileges committee and, certainly, advice provided to the opposition was that at least three other members of the House of Assembly who were not members of the Liberal Party party room were prepared to support it as well. So, there were the required 24 members of the House of Assembly who were prepared to support the establishment of a privileges committee.

Premier Rann and the Minister for Emergency Services have sought to make a virtue out of something they have been forced into, and it is certainly wrong. I know that some members of the media have taken up the issue that the government did not have to accept it. Again, I say to them that it is wrong for them and for the government to claim that this was done of its own volition. If they had the capacity to close it down on Monday, they would have closed it down on Monday. They chose the second best option: they put up the facade of establishing a privileges committee and then deliberately subverted the role and operation of the privileges committee so that it could not undertake the necessary inquiries by looking at documents or by interviewing any witness at all to try to look at the truthfulness or otherwise of the statements that had been made by the Minister for Environment to the parliament. It is, as my colleagues have suggested, a whitewash and, to use my phrase, it is an absolute disgrace and a cover-up.

Mr Acting President, as you probably know, I have never held the member for Elder in high regard, but certainly any regard in relation to his integrity has now disappeared right out the window. His behaviour in relation to this particular issue has been, as I said earlier, an absolute disgrace.

The Hon. Diana Laidlaw: And true to form.

The Hon. R.I. LUCAS: And true to form, sadly. He is commonly known as a schoolyard bully. He loves to hand it out, but when it is dished up to him he squeals like a stuck pig. We have seen that on a number of occasions and in relation to this matter his behaviour, as I said, has been an absolute disgrace.

Any regard that I had for the approach of the member for Fisher in relation to the issue of accountability of ministers to the parliament has been very severely dented by his complicity in this cover-up by the government. The two

government members required the support of the member for Fisher to bring down this report but, in particular, required the support of the member for Fisher to prevent evidence being given by any witnesses and to prevent any documents—other than one, as I understand it, but any further documents—being presented to the parliamentary Privileges Committee to establish the truthfulness or otherwise of the claims that were being made by the Minister for Environment.

So, certainly, I do not want to hear from the mouth of the member for Fisher on talk-back programs—or, indeed, otherwise—these lofty proclaimed goals of the accountability of ministers and the executive to the government which many of us have heard before from him. In relation to this particular issue one needs to wonder why the member for Fisher has colluded with the government in this cover-up in relation to—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: Well, that is why I moved the substantive motion: I intend to reflect. I have reflected on the ministers, the government and the member for Fisher, and I intend to continue to reflect. We will certainly watch with great interest matters in relation to the interrelationship between the government and the member for Fisher.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: My colleague the Hon. Mr Redford refers to a particular issue, but members of the opposition and I will certainly be monitoring the closeness of the interrelationship between the government and the member for Fisher from this day onwards. Given the statements the member for Fisher has often made, both privately and publicly, in relation to the accountability of ministers to the parliament, and criticisms he made publicly of the former government and former ministers, in relation to what he said was the importance of accountability of ministers and the executive arm of government to the parliament, contrary to those particular lofty goals that he proclaimed earlier, for him to have been complicit in this cover-up sadly reflects on the member for Fisher and his approach to this particular matter.

This is a very fast moving set of circumstances and the closure of the parliamentary Privileges Committee is only just occurring, or has just occurred, in another place. As an opposition we have not had an opportunity to consider the various options open to the parliament to try to get to the truth of this particular issue, but I will flag—

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: And to maintain standards, as my colleague the Hon. Diana Laidlaw has indicated. While there has been no discussion by the opposition to this stage, I indicate that one option the opposition might contemplate is the possibility of the establishment of a select committee of inquiry in the Legislative Council to get to the truthfulness or otherwise of the statements that have been made in a genuine endeavour, as my colleagues have interjected, to try to set the appropriate standards of accountability for the executive arm of government to the parliament.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: My colleague the Hon. Mr Redford asks, if such a committee were established, whether the Premier and other ministers would allow minister Hill to present evidence. One would hope so, but, if the Premier and the ministers decided not to, I think the public, and I hope the media, as well, would judge that, clearly, this government has much to hide in relation to this issue.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: There is a precedent in this place where, on the Marineland select committee of inquiry, minister Arnold and his officers, such as the current member for Port Adelaide, Mr Foley, were required to attend before the Legislative Council select committee to present evidence. There is a well-established precedent in relation to upper house select committees: ministers of the government, and indeed their staff and senior officers, have been required to present, and have presented, evidence on controversial issues.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: More importantly, they have appeared before Legislative Council select committees. It may be that that is the only way in which the truth of this matter can be brought to bear. It might be that this is the only way in which witnesses, who may be able to provide important information, can freely and fairly give evidence that may indicate, quite clearly, that the Minister for Environment and Conservation has deliberately misled the parliament. It may be that documents exist within the minister's office or government departments that indicate that the minister has deliberately misled the parliament. One can only assume as to why this government, having established a parliamentary Privileges Committee, then engaged in a cover-up by preventing any evidence being presented—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: They obviously thought they could get away with ensuring that no evidence could be given and that no witnesses could be provided that may cause further grief for the Minister for Environment and Conservation. I have not had a chance to read all of the committee's six page report, but I note that on the last page the report states:

> The same logic was applied to documents [as they applied to the calling of witnesses]. The committee did not believe it should troll for documents at large, merely on the basis they might or might not say something of interest. In such circumstances, the documents that might be called for would be virtually endless.

I well recall that, in relation to a previous issue, where minister Ingerson was being attacked by the then Labor Opposition, the then Labor Opposition had access to documents where either the minister or his chief-of-staff—I need to check the exact detail—had actually noted on the documents, with a date and a signature, that those documents had been seen by the minister. That is one reason—and there are many others—why one needs to look at particular documents. One can only suspect, given that this government is involved in a cover-up and did not allow any documents to be seen, that they may be aware that a document exists in the minister's office or in the department that has the handwritten notation of the Minister for Environment and Conservation and a date, which is the common practice of all ministers when they have seen something and which indicates that the minister has read that particular document. One can only suspect but does not know.

One should consider why this government established a committee and then refused to allow it to look at any documents or talk to any witnesses. Why have they chosen that course of action? One possibility is that there is a document in the minister's office or in the department which has minister Hill's signature and a date, indicating that he has seen a copy of a particular document.

The Hon. R.D. Lawson: It's more than a possibility.

The Hon. R.I. LUCAS: More than a possibility, as my colleague the Hon. Mr Lawson indicates. There is a very strong suspicion that, if a government decides to close down

an inquiry and not allow any documents to be considered, looked at or investigated by a Privileges Committee, they know there is something to hide in the minister's office or department. As I said, this will be an issue for the opposition, indeed, for all other members of parliament who are interested in high standards of accountability, which excludes, clearly, the government members in this chamber, but other members of the Legislative Council who are interested in trying to maintain high standards of accountability and competence in terms of ministers. They may need to consider the issue of how this council can assist in trying to maintain high standards of accountability when there is a minister who, in my view, has deliberately misled parliament on a number of occasions.

We have a Premier and other ministers who have claimed high standards of transparency and accountability but, at the first test, the Premier has gone weak at the knees and not been prepared to follow through on those lofty goals and statements about being a transparent, open, honest and accountable government. For many of us who knew the Premier in another guise, and over many years, it is not of much surprise that, indeed, he would go weak at the knees in relation to his first major test as to whether he was serious about standards and accountability.

I return to the issue of this minister's behaviour and, in particular, put on the record for members of the Legislative Council the fairytale that the Minister for Environment and Conservation would wish us to believe in relation to this issue. The first thing, if one wants to believe the minister's story—and, indeed, the government's story—is that, having been in opposition for eight years or so, on the first few days of his becoming a minister, having been presented with the important briefing folders in terms of the major issues that confront the minister for the environment, he did not read his briefing folders. That is the story, when one looks at the claim made by the Minister for Environment and Conservation.

It was not just this particular brief (which, as I said, was supposedly one of the most critical issues for this minister and the government in relation to a nuclear waste repository), and it was not just this issue with respect to which he deliberately chose, so he says, not to read the briefing: it was also, indeed, with respect to most other issues. He said that he relied on oral briefings; that he called officers in, one can only assume, to read out their briefing documents to him so that he did not have to read those briefing documents. That is one area that the Privileges Committee, or a future select committee, should look at, that is, the nature of those verbal briefings that minister Hill claims he was given on the nuclear waste repository issue. We are asked to believe that the minister did not read this critical briefing note in the first weeks of coming to government. He has now had over 12 months to read his briefing notes in the transition to government, but we are asked to believe that he did not read them.

But there is more (in the words of that famous television commercial). The minister would have us believe that, when he received my freedom of information request, unlike most other ministers (I think he was the only one—or there might have been one other), he did not leave the handling of my freedom of information request to the freedom of information officer: he personally handled the freedom of information request. He signed a letter to me indicating that he had released a certain number of documents. He granted partial access to 62 items, and he said:

> I have determined to grant partial access to 62 items. In addition, I have determined not to grant access to 11 items.

He did not follow the course, as I said, adopted by all other ministers, I think without exception, where the freedom of information officer handles it. He obviously either did not have confidence in his freedom of information officer or, at least in this case, he thought that he would handle this issue.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: As the Hon. Mr Redford said, he wanted to personally handle this document. The letter signed by John Hill—

The Hon. A.J. Redford interjecting:

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

The Hon. R.I. LUCAS: —says not that 'officers have provided me with advice', or whatever else it is, in relation to partial access, full access or not to grant any access at all. The letter makes it quite clear: 'I, John Hill, have determined to grant partial access to 62 items. In addition, I have determined not to grant access to 11 items.' It is clear that the minister, in signing this letter, had to have made these determinations, otherwise, he has signed a letter that is untruthful. He indicated that he determined to grant partial access, he indicated that he determined not to grant access and he also indicated that he determined to give full access to a range of documents, including the document that has got the minister into so much trouble.

We have a situation where, if one believes the Minister for Environment and Conservation, one has to accept that he did not read the letter that he signed; that he did not do as he had indicated in that letter—that is, he had determined these issues. In other words, he signed a document containing untruthful statements in relation to having made the determinations himself, and that he had not read the documents which were attached and which were then released. If one believes, or wants to believe, the fairytale that the Minister for Environment and Conservation, the Premier, and others, are proposing, one then also has to accept what happened when the member for Davenport explicitly asked the minister whether or not he had read document EPO23. The shadow minister stood up in the house and asked the minister, 'Have you read document EPO23?' The minister would have us believe that, even after that, he did not go off and have a look at that document and say, 'What the hell is the shadow minister on about? What is this particular document?' He would have us believe that he acted in that way.

There would be no minister, present or past, who would believe that story from the Minister for Environment and Conservation. It is clear that that statement is untrue. It is clear that a minister, having been asked a specific question from a shadow minister in parliament during question time, would have gone off and looked at that document. There is nothing in the Privileges Committee's report—or, indeed, anything on the public record—which refutes or rebuts that proposition. I note that, in some parts of the Privileges Committee's report, all sorts of assumptions are made by the government members—and the member for Fisher, one would assume—in terms of looking at a particular sequence of events and then asking, logically, 'Why would he have done this?'—making conclusions not based on any evidence but based on those members' assumptions about the logicality of a particular sequence of events.

Those members, including the member for Fisher, were quite happy to make those assumptions in relation to that

matter, but they were not prepared to address the sort of sequence of events that I have just indicated and proffer a view as to the likelihood or otherwise of the claims made by the Minister for Environment and Conservation being true—that, in those circumstances, he would not have come out of question time and asked to see the document himself or asked for a member of his staff to give him a copy of the document. Those members want us to believe that the minister was so incompetent or negligent that he did not respond in that way and that, during question time, a member of the minister's staff would not have immediately located that document, looked at it, underlined it, provided a copy to the minister and said, 'You've got a bit of a problem in relation to this.' It absolutely beggars belief.

Then one goes on to the situation where, I think, for the third or fourth occasion, earlier this year, the member for Davenport asked a further question after an answer to a parliamentary question had been produced and, again, the minister said that he had not received any advice in relation to this issue about a nuclear waste repository from any government department or agency.

Those members who have had the experience of being a minister will know that, whilst it might be true that on most occasions answers to questions are produced by members of staff or members of the department, or a combination of both, I do not know of any competent minister who signs off on those answers willy-nilly to go to the cabinet process (if that is the process of the current government) or to go back to the parliament.

Every minister assiduously goes through a proposed response from a department or a minister's staff prior to agreeing to a final copy, and there is documentation in the minister's office where the minister notes, with a signature and a date, whether he has approved a draft or amended a draft. Again, this is one of the reasons one suspects that the government does not want to see any documents produced to a privileges committee, because one can only assume that it is aware that the minister has signed off on answers or amendments, perhaps even in his own handwriting.

Certainly, in my case and, I am sure, that of my colleagues, on many occasions proposed drafts of proposed answers to a parliamentary question would have been amended, heavily amended in some cases, and they would be finally signed off on by the minister. There would be documentation in the minister's department and the minister's office on questions and, potentially, on this question as well. This is a further reason why the government has sought to close down this inquiry and to cover up the possibility of any of this evidence ever getting out.

In relation to these issues (and we are seeing it already with the recent leaking of a cabinet submission on increases in fees and charges by this government, which is another broken election promise), governments may well seek to cover up documents which might be embarrassing to them. But, more often than not, they have a way of finding their way onto the public record through the services of officers who believe that truth and accountability should be out in the open in relation to these issues, rather than finding themselves colluding in a government cover-up of monumental proportions. Therefore, if one is to believe the government's position on the Minister for Environment and Conservation, if one looks at the sequence of events on all those occasions, dating back many months, the minister never read this document, EPO 23.

The Hon. R.D. Lawson: Unbelievable!

The Hon. R.I. LUCAS: My colleague the Hon. Mr Lawson says 'unbelievable'. I say the same: frankly, I do not believe it. In my view, it is clear that the minister has deliberately misled the parliament and, sadly, this Premier, has not been prepared to take strong and decisive action consistent with the lofty objectives he has proclaimed for himself and his government prior to and since the election.

As I said at the outset, and I want to conclude on this point, even if one were to believe the fairytale that the Minister for Environment and the Premier are telling us—that on all these occasions the minister did not read the document—the minister should no longer remain a minister of the Crown. If we have a person in the office of Minister for Environment and Conservation who is so negligent and so incompetent that he refuses to read briefing documents; that he refuses to read letters that he writes to members on freedom of information requests; that he refuses to read answers to parliamentary questions provided either to the cabinet or to parliament; that he refuses to take up an invitation from the shadow minister as to whether or not he read a particular document; in my view, that person automatically disqualifies himself on the grounds of incompetence from holding the important office of a minister of the Crown.

As one wanders the corridors of Parliament House, there is a number—and I have to say that it is a small number—of the Labor caucus who hold that view as well. They have openly indicated that—

The Hon. R.K. Sneath: Mischief making.

The Hon. R.I. LUCAS: There is one member of the caucus, who is very well known to the Hon. Mr Sneath, who certainly holds that view, and he well knows who that person is.

The Hon. R.K. Sneath: Mischief making.

The Hon. R.I. LUCAS: It might be mischief making but it is the truth.

The Hon. R.K. Sneath: Yes.

The Hon. R.I. LUCAS: The Hon. Mr Sneath says yes. I thank him for the yes. The Hon. Mr Sneath knows that there is a small number of members of the caucus who hold a very strong view that it is very hard to believe these claims being made by the Minister for Environment. Even if one were to believe them, he should not be the Minister for Environment if he refuses to read even the basic briefing documents on so critical an issue as this. This was the first test for the Premier and this government on their lofty goals and objectives of openness and accountability. They have failed miserably. It does not surprise the opposition that the Premier went weak at the knees.

The Hon. A.J. Redford: They didn't stumble at the first hurdle: they ran straight into it.

The Hon. R.I. LUCAS: As my colleague the Hon. Mr Redford says, they did not stumble, they ran straight into the first hurdle. It does not surprise us that the Premier has gone weak at the knees at his first test on this issue. Certainly, from the opposition's viewpoint, we will consider not only the option of a select committee but other options to try to ensure that those members in this place who want to see the truth come out on this issue have the opportunity to do so.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I rise to indicate that the government does not support the sentiments expressed by the honourable member. In fact, the committee has just made its determination in relation to the aspects raised by the honour-

able member. The only part of which it is necessary to notify the council is:

On the evidence, the committee cannot find the minister deliberately misled the house—

which is the question that the Privileges Committee had to investigate and make a decision on—

The third limb of the test, therefore, does not require examination.

In relation to the two motions that are before the council, that is, Notices of Motion Private Business, No. 4 and No. 5, I know that the opposition wants to pursue the issue, as outlined by the honourable member. It means that the Privileges Committee's deliberations and final decision stand on their own. In this state, we have pursued an outcome in relation to the charges laid against the Minister for Environment and Conservation in the appropriate manner. We now have a de facto Privileges Committee being set up in this council in the guise of a select committee.

The situation is that the other place has spoken. I understand the recommendation in the contribution—that we set up another committee to investigate the same set of circumstances. So, we will now sit in judgment of the Privileges Committee, and I wonder what will happen if we bring in a resolution. It will have nothing to do with anything. Where does it go? What recommendation can it make and to whom? That is the difficulty that we in the Legislative Council will have in establishing what the circumstances are. I will be seeking leave to conclude and, if other matters need to be raised at a later time, I will do that on completing the debate on this motion. The honourable member raised the difficult issue of making a decision now because we are not in receipt of the full information. In fact, I thought the honourable member was going to seek leave to conclude and get further information.

The Hon. R.I. Lucas: I am very generous to you. I wanted to hear you defend him, but you haven't done much of a job so far.

The Hon. T.G. ROBERTS: I do have a defence to present if required, but the Privileges Committee has made its decision. Any spirited defence that I was going to make is not necessary. The house of the people has spoken, and that is where the final deliberations remain. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

STATUTES AMENDMENT (EQUAL SUPERANNUATION ENTITLEMENTS FOR SAME SEX COUPLES) BILL

Adjourned debate on second reading.

(Continued from 27 March. Page 2004.)

The Hon. A.L. EVANS: The objects of this bill in broad terms are to extend superannuation entitlements under four state superannuation acts to same sex couples. Under the current law, the only ones eligible for superannuation are legal and putative spouses. The term 'putative spouse' means a de facto partner of another person. Same sex partners do not qualify as putative spouses and are therefore not eligible for the same superannuation entitlements as married or putative spouses.

The bill allows the surviving partner in a same sex relationship to receive the same benefit in relation to state superannuation as would be received by the surviving partner in a heterosexual relationship. In order to achieve its objective, the bill extends the definition of 'putative spouse' to include those people to whom a certain declaration has been made by the District Court.

Family First will be moving to establish a select committee. There are broader issues that need to be examined when considering this bill. One of those issues relates to the cost implications of the measure. We have been told that the government has estimated the cost to be in the vicinity of $20 million. I question the accuracy of that figure, for reasons that I will go into when I move my motion. It is important that a proper assessment of the financial implications of this bill be made.

Another issue is the legitimacy of other types of relationships in terms of eligibility for superannuation entitlements. Relationships exist between people who are living together and provide support, care and maintenance, one to another, but have not had a sexual relationship. They need to be investigated and opportunity given for evidence to be provided.

Another important issue is the impact that the bill will have on members of the contributor's family who are no longer entitled to the contributor's superannuation. What impact will this bill have on other laws? Will there be any simultaneous amendments if this bill is passed? These are all important issues that require further investigation. There are also some serious issues arising out of the bill relating to the privacy of the contributor, the same sex partner and members of the family. What is the impact of the bill on federal government pensions? Would there be a reimbursement? What has been the experience of other states with similar legislation?

A discussion paper entitled 'Removing legislative discrimination against same sex couples' has been released by the Attorney-General and seeks submissions by 7 April. The paper refers specifically to the bill. It is entirely appropriate that a select committee examine these submissions. A select committee is the appropriate way to go with this bill and it would examine:

1. the cost of the bill;
2. the impact on members of the contributor's family;
3. evidence from domestic co-dependents;
4. the extent of any amendments that may be needed as a result of this bill;
5. privacy issues affecting the contributor, the same sex partner and members of the contributor's family;
6. issues of proof and the nature of evidence required to establish that a same sex relationship exists;
7. the impact of the bill on federal government pensions;
8. the evidence of other states; and
9. to examine the submissions made in response to the government's discussion paper.

This should be a conscience issue for the ALP. It touches on the core values and morals of each individual member. I encourage members to follow their conscience and not be told what to do on such an important issue. I do not support the bill because I believe that broader issues first need to be considered by parliament. A decision on this bill will be premature. Why all the urgency? I ask members whether they believe that it is in the public and community interest to rush this bill through.

I have given notice of a motion for a select committee to be established when the bill is read a second time. I hope that members will recognise the real need to examine these broader issues. I urge all members to oppose the second reading and support my motion for a select committee.

The Hon. R.D. LAWSON: I rise to indicate my personal support for the matters just raised by the Hon. Andrew Evans in a contribution that was clear and persuasive. The honourable member mentioned that there are a number of outstanding issues that ought be considered by this parliament before this bill is progressed.

As members are aware, the bill was introduced in another place and was debated there and passed. At the same time, or shortly thereafter, the member for Hartley (Mr Scalzi) introduced a bill entitled the Statutes Amendment (Superannuation Entitlements for Domestic Co-Dependents) Bill. That is currently in the course of consideration in another place. It offers an alternative solution to the one proposed in the bill currently before this chamber.

It is my view that the Scalzi bill, which calls for recognition of partners based not on sexual relationship but upon relationship of domestic co-dependency, as it is called, must be considered at the same time as the proposals contained in the bill before this council are considered. There are a number of matters that have not been considered and ought to be considered. The Hon. Andrew Evans outlined those matters and raised the question: why the urgency? Why the rush? I certainly share that sentiment.

The government has introduced a discussion paper entitled 'Removing legislative discrimination against same sex couples'. This discussion paper points out that at present there are 54 acts of the South Australian parliament that treat same sex couples differently from opposite sex couples. The paper draws attention to the fact that this government went to the last election with a promise in relation to consideration of same sex relationships. The discussion paper has been promoted heavily by the Attorney-General. It calls for submissions to be received by 7 April, but a few days away from now.

Why would we in this chamber seek to proceed to examine this very narrow area of same sex relationships and not consider its wider ramifications? Would it not be better for this chamber to have before it all the proposals, all the information, not only relating to the issues for same sex couples in other legislation but also the issues relating to the proposal to accord superannuation entitlements to domestic co-dependants, as is contained in the bill of the member for Hartley? The Hon. Andrew Evans has foreshadowed that, contingently upon the second reading of this bill, he would move for its referral to a select committee of this chamber. I strongly support that course of action if the bill passes the second reading.

I fear that this bill may pass the second reading here, notwithstanding the fact that this council does not have all the information before it. A committee of the whole of this chamber is not an appropriate committee to consider the issues to which I have referred. The committee of the whole does not have the capacity to call for evidence; it will not have before it the information regarding interstate experience where similar legislation has been considered; it will not have before it accurate actuarial evidence of the cost of implementing the provisions of the bill before us; and it will not have before it accurate information and actuarial calculations as to the costs, benefits and detrimental aspects of the implementation of the alternative scheme proposed by the member for Hartley.

There have been some very broad ballpark figures quoted by various parties, both here and in another place, in relation to the costs of these schemes but, when one is interfering with arrangements as delicate as superannuation, which do have the capacity to impact upon the delicate budget position of this state, we as legislators owe it to the public to make sure that we have accurate and up-to-date information in relation to the costs of these proposals. It is quite extraordinary, too, that we would be seeking to rush into the passage of this bill, which would accord certain benefits to what many people in the community would regard as a privileged sector of the community, namely, the public sector.

This bill, if enacted, will affect the Parliamentary Superannuation Act (members of parliament), the Police Superannuation Act, the Southern State Superannuation Act and the Superannuation Act, all of which deal with public sector superannuation. We ought not to rush the provision of benefits for a particular section of the community when many other members of the community may not enjoy the same benefits. Of course, the benefits that we are seeking to extend are benefits for which we ourselves are beneficiaries. It seems to me appropriate that these issues ought to be examined in a select committee.

The select committee need not be a long-winded affair. The information, though it is extensive, is within a fairly narrow compass and could be pulled together and considered and the select committee could report back to this parliament if not at the next sitting week certainly within the next couple of sitting weeks, so that the report will be available to members and to the community and can be considered by a committee of the whole of this chamber.

I will not go into all the details of the bill introduced by the member for Hartley. Suffice to say that I have put on file amendments to the bill currently before us, which amendments would introduce into the current bill the concept of domestic co-dependency and would ensure that the principle that the member for Hartley is espousing will be adopted. But it would be preferable in my view—my very strong view—for all the information relating to both bills to be collected in a formal way and be on the record so that members can speak with the benefit of information rather than from simply the perspective of a political agenda. We owe it to the community to have all the information before us before we proceed.

As I say, I favour the reference of this bill to a select committee and will be supporting the Hon. Andrew Evans in that endeavour should the bill pass the second reading. However, I fear that, unless the bill is opposed at the second reading, we will have the situation where this bill will be progressed without all the necessary information. It will be a protracted committee stage because, as I say, I will seek to move a significant number of amendments at the committee stage, if we reach that, to ensure that the notion of domestic co-dependency is fully debated here. For those reasons, I will not be supporting the second reading but, if the second reading is carried, I will be supporting with the Hon. Andrew Evans his amendment to have the bill referred to a select committee.

The Hon. D.W. RIDGWAY: I rise in support of the second reading of this bill.

The Hon. T.G. Roberts: Hear, hear!

The Hon. D.W. RIDGWAY: Don't get your hopes up too high! Under the state and federal superannuation laws, a de facto partner or putative spouse may make claims upon the death of their spouse to access the deceased partner's superannuation. This is achieved by a declaration of partnership obtained through an application to the District Court. It seems that, in South Australia, access to our state superannuation fund upon the death of a spouse is not permitted to

couples of the same sex, a provision that clearly discriminates against public servants in a same sex relationship.

The discrimination in the current legislation seems to be contained in the definition of 'putative spouse', in that our legislation in South Australia only recognises putative spouses as two people of opposite sexes. Thus, if your putative or de facto partner is of the same sex, you are currently unable to have your relationship recognised for the purpose of accessing your deceased partner's superannuation. I believe it is unfair and discriminatory, and that any life partnership should be recognised to the extent that the death of one partner should allow the surviving partner to access their benefits. It is my understanding that the current bill seeks to introduce an additional provision to the definition section of the four South Australian superannuation acts. This new provision would allow same sex couples to be included in the definition of 'putative spouse', therefore allowing rights of access of other de factos to their deceased spouse's superannuation.

This provision seems to be a very small yet powerful amendment that would bring South Australia into line with other states in the recognition and equal treatment of same sex relationships. Given our state's history of acting at the forefront of homosexual reform, it would seem fitting that we extend similar consideration to same sex couples. I also believe the legislation relating to those who serve our state in particular should reflect human rights, equal opportunity principles and the best possible outcomes for our workers. My reservations regarding this bill do not apply to the principle behind the bill, which I broadly support, but more to the financial implications that the passage of this bill would necessitate. Estimates by the Department of Treasury and Finance indicate that the cost could be up to $20 million in addition to our overall government unfunded liabilities, which the Treasurer noted on 17 October 2002, and would put recurrent yearly costs at at least $500 000 a year.

It is interesting to note the government's willingness to commit financially to end discrimination of some people to the tune of $500 000 a year at the expense, I would venture, of some others—namely, mostly, those in rural areas. Roughly $500 000 a year is the sum that the government has taken out of the electricity subsidy for remote areas—just one of many cuts to essential services funding that the rural communities have had to bear since the government came into power. Given recent and unexpected rises in electricity costs, one could be forgiven for thinking the government has taken money out of one region and put it directly into another region that services its support base. Is it that this government is capable of remedying discrimination only where it happens to exist in metropolitan areas? If we are to support this bill on the basis of principles of equal opportunity and equal rights, we should look at the bigger picture.

A few more examples might illustrate my point further. Regional schools in Angaston, Gawler and Orroroo have had their capital works projects deferred, while Booleroo Area School, Ceduna Area School, Mawson Lakes School and Willunga Primary School have had planned projects reduced, taking the total amount of spending from $29.3 million to $14.3 million. The Roads of Regional Importance program has had funding cuts from $2.2 million to $700 000, as has a rural arterial road-sealing program (from $8.24 million to $2.83 million). Metropolitan hospitals have been given an increase of 7.1 per cent, while country hospitals have been given only 2.4 per cent.

But I digress. The issue at hand is equal rights for some same sex couples with regard to their superannuation funds. However, while I support the second reading of this bill, I also support the establishment of a select committee to examine all of the proposals for same sex superannuation rights as well as a domestic co-dependant proposal put forward in another place by the member for Hartley (Mr Scalzi). So, while I indicate my support for the second reading, I will reserve my decision for the final stage of this bill.

The Hon. CAROLINE SCHAEFER: My contribution on this matter will be mercifully brief. However, it is a conscious vote for this side of the council and I believe, therefore, that we should all put our positions on the record.

This bill is not as simple as it would appear, and there seem to me to be two different issues. The recognition of same sex couples, as that may apply to all sorts of legal issues within the meaning of 'putative spouses', includes such issues as entry to IVF programs and a number of legal matters which I believe are inappropriate. However, I also believe that if someone has contributed by way of their salary package for their entire working life to a superannuation scheme, they probably should have the right to distribute the proceeds in a way that they best see fit. Certainly, if they were in a private superannuation scheme the proceeds of that superannuation would become part of their estate, and I see no reason why that should not apply equally to someone who happens to be employed in the public sector.

The argument against that then becomes: if it is the right of same sex couples to distribute their superannuation as they please, is it not then the right of any hard-working person who has contributed for all of their working life? We are assured that the taxpayer of South Australia could not afford the Scalzi bill, and it is arguable whether they could afford the Bedford bill. Surely, if the government of the day decides that this is important enough for same sex couples, then maybe it should be important enough to enable whomever to distribute whatever is their entitlement.

The next debate for me is whether the taxpayer should subsidise all of these people or whether they should be entitled only to that part of their superannuation contribution which is theirs, and indeed their employer's, and the interest that would have compounded over their working life, without any contribution from the taxpayer of the state.

I have not found this an easy bill to come to terms with. I believe there are a number of unanswered questions, and many of those have to do with what the cost to the taxpayer would be and what is an equitable solution to what I see as an economic right, which has very little to do with the sexuality of the recipient of someone's superannuation.

For those reasons, I would certainly support a select committee, because I do not believe that we have all the answers to this question. I am not satisfied that the distribution of superannuation is all that is implied within this bill and, for that reason, I will oppose it. But I would be amenable to either a select committee or an amendment which would allow people's contributions and their employer's contributions to be distributed as part of someone's estate in the same way that would apply if they were in a private superannuation fund.

The Hon. J.S.L. DAWKINS: As has been stated earlier, this is a conscious issue for members of the Liberal Party. I do not, for one moment, doubt the sincerity of the proponents

of this bill, the member for Florey in another place and the Hon. Gail Gago. I also recognise the concerns raised by many people in the community about some of the aspects of this bill, and some of those concerns I think also come from people who have read the second reading speeches in relation to this legislation. Some of those concerns have included the prescription of the title 'same sex' in legislation and also the reference to same sex couples as families.

I echo the comments of my colleague the Hon. Caroline Schaefer in relation to the complexity of this bill and the difficulty she has had getting her head around it. The queries that came to mind for me I think have been covered quite adequately by the Hon. Andrew Evans in his contribution earlier this afternoon, and in his speech he listed a number of those which form the terms of reference for a select committee. He talks about the cost of the bill and also the impact on members of the contributor's family.

The terms of reference would also include evidence from domestic co-dependants; the extent of any simultaneous amendments that may be needed as a result of the bill; and issues relating to the privacy of contributors of same sex partners and members of the contributor's family. Also, the terms of reference would relate to issues of proof and the nature of proof of evidence required to establish that a same sex relationship exists; the impact of the bill on federal government pensions and benefits; the experience of other states where similar legislation has been enacted; and, finally, to examine the submissions made by the community in response to the government's discussion paper.

The terms of reference proposed by the Hon. Andrew Evans would cover a lot of the queries raised in the community about the longer term impacts of such legislation. I have a considerable number of queries about it, so it is my intention to oppose the second reading. However, if the second reading is passed, then I will support the motion of the Hon. Andrew Evans for a select committee to be established.

The Hon. NICK XENOPHON: My position in relation to this bill and related matters is as follows: I will support the second reading of the bill so that, in due course, it may be further advanced to the committee stage. As a principle, I do not believe that a same sex couple, fulfilling the criteria that would apply to a heterosexual couple pursuant to the putative spouse provisions under the state's Family Relationships Act, should be discriminated against in respect of superannuation entitlements. However, the position put forward by the member for Hartley, Mr Scalzi, in relation to domestic co-dependants in advancing his bill—the Statutes Amendment (Superannuation Entitlements for Domestic Co-Dependants) Bill—in the other place, I believe does have merit. I note that my colleague the Hon. Andrew Evans proposes to establish a select committee to further inquire into this bill and also matters raised by the member for Hartley's bill on the basis that it concerns similar subject matter, namely, the extension of superannuation benefits for domestic co-dependants, which, as defined, would include a same sex couple.

Concern has been expressed by opponents of the Scalzi proposal in relation to the costs involved in such an expansion to the scheme. My understanding is that the Hon. Andrew Evans's proposed select committee concerns a number of confined and discrete issues. Indeed, I note that the Hon. Mr Lawson in his contribution has said (and I trust I am quoting him accurately) that such a committee would not be a longwinded affair and that it would be of a narrow compass. The select committee may shed light on a number of concerns raised in respect of both this bill and the Scalzi proposals. I understand that, if the Hon. Mr Evans's proposal for a select committee is successful, it will report back to the parliament expeditiously—by 28 May, as I understand it.

I am prepared to support the move for a select committee to give the Scalzi proposals an opportunity for that and other issues relating to this bill to be further considered. However, I make it clear that, in the event that such a select committee does not complete its report by that date, I will support the committee stage of this bill continuing so that the bill can be dealt with. It will then be a matter for the Scalzi proposals to be dealt with by other means, such as a private member's bill in this place or another place. I note and appreciate the contribution of the Hon. Mr Redford in relation to this bill and commend the intellectual rigour of his contribution. I share the Hon. Mr Redford's view that this bill is not the thin end of the wedge in relation to other unrelated issues in respect of same sex couples. I believe the principle behind the bill is just, but I also believe that there is merit in considering the Scalzi proposals, as expressed by the Hon. Andrew Evans's motion for a select committee.

The Hon. R.I. LUCAS (Leader of the Opposition): I will address some comments to the second reading of the bill. In so doing, I am quickly trying to go back to when, as a member of parliament, I first debated issues in relation to anti-discrimination legislation and the parliament introduced amendments to outlaw discrimination on the grounds of sexuality. If one looks at the debates of those times—to refresh my memory, I might say, of the views other members and I expressed at the time—as a tangential matter, I think only three members of the Legislative Council participated in that debate, that is, the Hon. Diana Laidlaw, the Hon. Mr Gilfillan and me. So there has been a fair turnover: there is no longevity or long service leave for members of parliament these days!

The Hon. A.J. Redford: When was that?

The Hon. R.I. LUCAS: That was 1984.

Members interjecting:

The Hon. R.I. LUCAS: It shows how much the issues have moved on since 1984, as well, and I will refer to the comments and attitudes of that time in a moment. The issues do go around in cycles. In addressing my views at that time and consistently on the issue of homosexuality over the period of my parliamentary service, when one looks at a continuum of views, at one end of the continuum there are those who would argue that same sex relationships ought to be treated in every way similar to heterosexual relationships and, at the other end of the continuum, there are those who have argued, and possibly still argue, that in no way at all should statute provide, for example, even what is currently now provided, that is, anti-discrimination provisions in relation to sexuality.

As my views in 1984 indicated, I am not at either end of that particular continuum. I certainly do not subscribe to the views that statute law in relation to anti-discrimination legislation should not provide protection for people in relation to discrimination on the grounds of sexuality. Indeed, the views that I put in the second reading and during the committee stage of the debate in 1984 indicated that view. Equally, the view which I put at the time and which remains my view is that I am not at the other end of the continuum, either. I do not subscribe to the view that in all circumstances same sex couples ought to be treated in the law in a similar way as heterosexual relationships.

Many members have indicated that they are somewhere between those two extremes, as the views have been expressed by various members during the second reading debate. Some are further along the continuum than I—and that remains my view. In relation to those debates of 1984, I am sure this must have been a conscience issue for members on those occasions.

The Hon. Diana Laidlaw: Yes, it was.

The Hon. R.I. LUCAS: I can see an amendment moved by the Hon. Mr Griffin to leave out 'sexuality'. Like my colleagues, I respect the views of the Hon. Trevor Griffin on this issue. That debate related to the responsibility of the Commissioner for Equal Opportunity and whether or not he or she should have any responsibility in relation to education, and whether or not the word 'sexuality' should be included. It is interesting to note that during that debate—and it may be my educational background—I found myself in strange company sitting with most of your former colleagues, Mr President, on the other side of the chamber; so, also, did the Hon. Mr Gilfillan.

The Hon. Mr Gilfillan voted with all the Labor members on that occasion, as well. By a majority of just one vote, that provision was left in the Commissioner for Equal Opportunity's functions, that is, in terms of a positive function in relation to education. When one goes through the committee stage of that debate back in 1984, one can see that various provisions in relation to banning discrimination on the grounds of sexuality passed through the committee stage by votes of a margin of one or so.

I go to the history of 1984 to indicate that my position remains one of being somewhere between the two extremes in relation to this matter, but not being as far along the continuum as some of my colleagues. It is a question for me because I am sure that part of the debate from the proponents of this provision is that this clause is consistent with the trailblazing legislation of 1984 in relation to banning discrimination. The argument has been put that this is discrimination. But, equally, the argument has been put in relation to a number of other pieces of legislation that they constitute discrimination against same sex couples. That has been canvassed not only in the discussion paper in South Australia but also in Tasmania and a number of other states.

The same argument is used; that these pieces of statute law do discriminate against same sex couples. We are addressing one here, and I understand the view of some members that this one can be treated as being different from others. That is their view and, certainly, I respect their right to hold the view. However, it is not necessarily one of which I am convinced at the moment. I am happy to listen to further argument and debate that we as a parliament and a community might have about how one could distinguish this legislative change from the others that are being contemplated—and I forget the number of acts that have been canvassed—in terms of further legislative change to recognise same sex couples in a similar way to heterosexual relationships.

As I have said, the view that I had in 1984 remains the same. Certainly, that is not a path that I would be prepared to support. I would not rule out absolutely being prepared to support at some stage some legislative change, whether it be the amendment that has been moved by the member for Hartley or this amendment. But, at this stage, I am not prepared to support the changes contemplated in this legislation. I know that some of my colleagues are attracted to the alternative option that the member for Hartley has put. Again, I am prepared to listen to the debate but, at this stage, I am not convinced by the arguments that have been put by the supporters of the amendment that has been moved by the member for Hartley. For me, this amendment opens up superannuation provisions for same sex partners. The member for Hartley in his amendment opens up superannuation for same sex partners, but also adds a variety of other domestic relationships. From my viewpoint, if I have an objection to opening up superannuation for same sex partners, that is a consistent part of this bill and also the proposed amendment from the Hon. Mr Evans in this council, but which is also being put by my colleague the member for Hartley in the lower house.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: Being put, I should say (I am corrected) by the Hon. Mr Lawson, and also being proposed by the member for Hartley through other legislation. As I said, I would not rule out absolutely the issue but, if required, as I am, to cast a vote today on the second reading of this bill, I indicate that I will be opposing this legislation. I think that, if forced to vote on an amendment similar to the ones proposed by the Hon. Mr Lawson and supported by the member for Hartley, at this stage, I would be voting against those as well. But I indicate that I am certainly prepared to participate in the ongoing debate, as is canvassed in the discussion paper at the moment, as to whether or not we as a parliament are prepared to move not just in this area but also in other areas, and how one can distinguish some of those areas from all of them; or, if there is, in essence, an ongoing inconsistency (as I concede exists at the moment), one has to draw the line somewhere, and the line has been drawn broadly as per the 1984 legislation. This would seek to take it a step further, and then a significant number of other steps are contemplated in the discussions that are taking place in South Australia but which have already occurred in Tasmania and some other states.

The only other point that I have not addressed relates to the issue raised most recently by the Hon. Mr Ridgeway, which is in terms of the cost of the provisions. That is an important issue that has been canvassed. When this issue was first raised, I think by way of question from the member for Florey to me as treasurer, I know that the Treasury advice at the time was, frankly, just a guesstimate, and I suspect it is still the same. And that is not a criticism of Treasury: the Treasury officers, who are very competent, relayed what information exists for them in terms of the number of same sex partners and the shape and nature of those relationships in terms of age. A database just does not exist with respect to that sort of information.

I know that the original estimate (which, again, was quoted by, I think, the Hon. Mr Ridgeway) was very much a guesstimate by an officer. It was not done in any way through any detailed survey or study. As I said, that is not a criticism of the Treasury officer: it is just a statement of the difficulties in making estimates in this area. I would venture to suggest, therefore, that the estimates that have been provided by Treasury and the Treasurer to kybosh the amendment being moved by the member for Hartley (and I think those estimates have been $100 million) are no more accurate than the guesstimates that were made in response to the original question from the member for Florey.

The Hon. A.J. Redford: Are you saying that a committee would be more qualified to guess these things than a treasurer?

The Hon. R.I. LUCAS: I do not think they would be more qualified, but at least they would have the opportunity to ask the questions and obtain the detail—

An honourable member interjecting:

The Hon. R.I. LUCAS: No, they can certainly ask questions of the Treasury officers and seek advice from other states, or perhaps even other jurisdictions overseas—I do not know whether a similar situation exists elsewhere. But, certainly, at least the select committee would have the opportunity to canvass what information exists. But, importantly, at least putting on the record how the current estimates have been done would be a worthwhile public service, because I certainly know how the first lot were done, and I suspect how the second one was done and—

The Hon. T.G. Roberts: Lucky you are supporting it—

The Hon. R.I. LUCAS: Supporting what—the select committee? To answer the interjection, it is possible that some further light could be thrown on it but, with respect to the expertise that would be on a Legislative Council select committee in this area, there is not that much actuarial expertise available amongst Legislative Council members of which I am aware. There might be hidden light under bushels somewhere amongst my colleagues, but I am not aware of it. So, it will be a question of that information that can be made available. But I think it would certainly be useful to know how the Treasury officers have done the calculations, and then people can make their own judgments.

I think that, in the end, it will probably be as close as we are able to get. There might be some further information from other states. However, the Hon. Mr Ridgway has raised this as an issue that needs to be considered, from his viewpoint, and I accept the viewpoint—particularly if one does move down the path, as some members are supporting, in relation to domestic co-dependence (if that is the phrase); then, clearly, the cost would be more significant than just limiting it to same sex couples. Whether it is $100 million, one will not know.

It certainly will be more significant and, from the state's viewpoint, we are already seeing an increase in unfunded superannuation from $3.3 billion to $4.3 billion in the public sector schemes. Anything that would significantly add to that unfunded superannuation ought to be apparent at least to members prior to their casting a final vote one way or another. So, not only because of that issue but because of others as well, I am prepared to support a select committee if, indeed, there are enough members to form a majority of this council to do so.

The Hon. G.E. GAGO: I thank all honourable members who have contributed to this most important debate. I particularly acknowledge the Hon. Diana Laidlaw, who offered enthusiastic support. In fact, she was the first member of the opposition not only to speak on the bill but, more importantly, to offer support. She was the first to leap to her feet to move a motion to suspend standing orders so that the bill could proceed without delay. The Hon. Diana Laidlaw acknowledged the importance of women in the progress of this important social justice initiative and, of course, many others. Indeed, she is a champion of individual dignity and decision making, as she demonstrated in her address.

I also thank the Hon. Sandra Kanck who, on behalf of the Democrats, supported this bill. She gave a very enthusiastic and insightful analysis of the Christian edicts in relation to homosexuality. I particularly liked her challenge to those who do not support the bill on religious grounds. She asked whether they would also support entitlements being removed from those whom the *Bible* singles out as transgressors, such as fornicators, adulterers and drunkards. I thought that would be quite a money-saving spinner.

The Hon. Sandra Kanck went on to demonstrate quite clearly, with a series of moral dilemmas that she posed, how the *Bible* can be used selectively to validate virtually any position. One such question she raised was:

> I have a neighbour who insists on working on the Sabbath. Exodus 35:2 clearly states that he should be put to death. Am I morally obliged to kill him myself?

I thank the Hon. John Gazzola, who added further weight to the support of the bill. I thank the Hon. Angus Redford for his comprehensive summary of the background to the bill and the various arguments for and against it in this and the other place, and I thank him for his support. His arguments on marriage and religion were particularly interesting and insightful, and I appreciated his proposed amendment, which we are prepared to support, in relation to the restricted publication of information in relation to the District Court. That was a very valuable contribution.

A number of speakers today made significant contributions: the Hon. Andrew Evans, who proposed that the bill be referred to a select committee; and the Hon. Robert Lawson, who has proposed amendments to achieve a Scalzi type bill out of this legislation. The Hon. David Ridgway, the Hon. Caroline Schaefer, the Hon. Robert Lucas, the Hon. John Dawkins and the Hon. Nick Xenophon all raised a range of interesting issues. A number of questions have been asked, and I will certainly attempt to bring back responses at the committee stage. I can answer the question, 'Why the rush?' Goodness gracious! This bill has been in another place for four years, and it has been in the council since October. You can hardly call that rushing. I am embarrassed to report that it was in the other place for four years.

The Hon. R.K. Sneath interjecting:

The Hon. G.E. GAGO: Yes, quite right. Another member questioned why this was not a government bill. Once we came into government, a number of options were given to the member for Florey (Frances Bedford), who initiated this private member's bill four years ago. Given that she had taken charge of this bill for such a long time and that she had done so in response to a constituent's request, her option was to continue to run it as a private member's bill rather than a government bill. She believed that it was more likely to deliver an outcome proceeding as a private member's bill than reissuing it as a government bill. That was her prerogative, and caucus respected that.

Finally, I give recognition to the member for Florey for all her hard work and endurance on this issue. I also thank Matthew Loader from the Let's Get Equal campaign, who has provided a lot of support and assistance. All I can do is hope that the bill progresses unhindered and, of course, that we bring our super entitlements in line with other states in Australia.

The council divided on the second reading:

AYES (13)

Gago, G. E.(teller)	Gazzola, J.
Gilfillan, I.	Holloway, P.
Kanck, S. M.	Laidlaw, D. V.
Redford, A. J.	Reynolds, K. J.
Ridgway, D. W.	Roberts, T. G.
Sneath, R. K.	Xenophon, N.
Zollo, C.	

NOES (6)

Dawkins, J. S. L. (teller)	Evans, A. L.
Lawson, R. D.	Lucas, R. I.
Stefani, J. F.	Stephens, T. J.

PAIR(S)

Cameron, T. G.	Schaefer, C. V.

Majority of 7 for the ayes.

Bill thus read a second time.

The Hon. A.L. EVANS: I move:

1. That this bill be referred to a select committee;
2. That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only;
3. That this council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the council; and
4. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

There are broader issues that need to be examined by the select committee before parliament should be asked to make a decision on this bill. Some of these issues relate to the cost implications of the bill, the impact on family members, the legitimacy of other relationships that are not sexual, the impact on other laws, the possible invasion of privacy, the impact on family payments, the experience in other states, and the importance of the recent discussion papers issued by the Attorney-General.

The present focus of the bill is on the sexual orientation of the claimant. Another group of people feels aggrieved by the fact that they are not included in this bill—people who have lived together and provided support, care and maintenance for one another but have not had a sexual relationship. They are living in a type of domestic co-dependent relationship. The member for Hartley introduced a bill in another place that broadens the scope of the superannuation entitlements to include domestic co-dependents.

I advise the council that two women have spoken to me who are in such a position. They have lived together for 20 years. They have cared for one another, they love one another, they share with one another, they attend the same church together. One of them works for the state government and is entitled to superannuation. The other partner feels that she is being discriminated against by this legislation and is strongly opposed to it. We should be giving the best possible opportunity to people like these two women who are in a relationship of domestic co-dependence to make a submission to a select committee on how this bill will impact on them. The committee needs to carefully look at the issues of discrimination. By failing to include domestic co-dependents, does this bill perpetuate discrimination rather than remove it?

I understand that in another place the main argument against the inclusion of domestic co-dependents is that it would be too expensive. According to the Treasurer's advice, the member for Hartley's bill would cost five times more and would increase unfunded liabilities by $100 million. How was that figure arrived at? Has the government determined the number of domestic co-dependents in this state? If so, what is it? An investigation needs to be carried out to determine precisely how much it will cost this state if domestic co-dependents were to be included within the ambit of those who are entitled.

In its present form, the bill raises important cost issues. The Hon. Gail Gago, when introducing the bill, stated that the government has estimated the cost in today's dollars to be of the order of just over $20 million spread over the life of that scheme, which is approximately 75 years. How has that figure been arrived at? I understand that a determination has been made by Treasury and Finance that 2 to 3 per cent of the population may become eligible as a result of the bill. In other words, it has been based on the assessment that 2 to 3 per cent of the population are currently in a relationship of significant duration and nature in order to qualify for a District Court declaration.

When asked about how the percentage figures were arrived at, we were informed by someone within Treasury and Finance that the percentage figure was a guess, arrived at by 'testing the wind', to quote that officer. The percentage figure has been a guess; yet proponents of the bill have stated that it would cost $20 million. I have additional concerns over how Treasury arrived at the amount of $20 million, and it is a very interesting situation.

When considering similar legislation, New South Wales carried out a costing exercise. The New South Wales government actuary came to the exact same cost findings. The Deputy Premier of New South Wales stated that it is:

> in the order of just over $20 million, spread over the foreseeable life of that scheme, which is approximately 75 years.

I find that to be extraordinary. For a start, New South Wales has a far larger population than does South Australia. In addition, it is often said that New South Wales has the second largest homosexual population in the world. It is absurd to think that the cost implications of this bill would be the same for our state as for New South Wales.

I call into question the accuracy of the $20 million. It is entirely reasonable that a proper assessment be made of the bill by a select committee and for this parliament to be properly informed before a decision is made concerning it. I do not believe that as a legislature we should be expected to make a decision on a bill that has been costed according to figures that are a 'guess' and have been arrived at by 'testing the wind.' The committee should also undertake a comparative analysis between lump sum benefits and pension entitlements. I understand that provision for lump sum benefits under this bill would significantly reduce long-term costs to the state. It is important that parliament knows by how much.

An investigation needs to be made concerning other members of the community who will miss out if this bill is passed, not just domestic co-dependants. Family members of the contributor who would otherwise have been eligible for superannuation benefits will no longer be eligible. How will they be impacted? The bill provides:

> Two persons of the same sex were, on a certain date, the putative spouses one of the other if the District Court has made a declaration. . . that they were, on that date, cohabiting with each other in a relationship that has the distinguishing characteristics of a relationship between a married couple (except for the characteristics of different sex and legally recognised marriage and other characteristics arising from either of these characteristics). . .

What evidence will be required by the magistrate so that he or she can positively attest that a same sex relationship does exist? Attestation to having a shared life is simple. However, the onus of proof may be on the surviving partner to establish that they were sexually active with their partner. Evidence of sexual activity may well be required before the District Court could make a declaration. In what form will that evidence be given? Will it be by way of a photo, or perhaps a witness?

There are real issues raised relating to privacy for the same sex partner and the contributor's family.

Even if the evidence is given by way of affidavit, it is still an invasion of privacy, because the affidavit will necessarily cover the intimate details of the relationship. A committee is needed to examine these fundamental issues concerning proof and issues of privacy. Will the passing of this bill have an immediate impact on other legislation? Will there be a need for simultaneous amendments? A committee should be required to report on those acts that will be impacted and the nature of the amendments. What is the impact on family payments? If both partners are retired, any federal government pensions they may have been receiving would have been as single persons.

The federal government does not recognise same sex relationships. Would it be reasonable, then that, upon attestation of a 'shared life' as a same sex couple, Centrelink would legitimately be able to request a reimbursement of overpayments for the preceding five years or more? This is an issue that requires further investigation.

Evidence needs to be obtained from other states. New South Wales has had similar legislation since February 2001. It is entirely appropriate that parliament be given a report concerning the cost to date to that state, the impact on the privacy of the contributor, their same sex partner and their family member, and the financial consequences on members of the contributor's family and the various other issues that I have already raised.

A discussion paper released by the Attorney-General, entitled 'Removing legislative discrimination against same sex couples,' seeks submissions by 7 April 2003. The paper specifically refers to this bill, and states:

> The discussion paper is intended to be the principal way we will consult the public on the proposed changes.

Public consultation is being sought. It is important that the responses be received and made available to the select committee for review. As a parliament we should not go ahead with voting on a bill prior to the results of a public consultation being made available. I do not believe that we can progress with consideration of this bill until these issues are properly examined by a select committee and a report provided. This bill will not only affect same sex partners but also the contributor's family, and it will affect the overall ability of governments to fund superannuation.

We cannot support such radical legislation without giving proper consideration to all the issues and answering all the questions that I am sure members will want to ask. To do otherwise would be to make a decision that is not based on facts, concerning a bill that has not been compared with similar schemes interstate. I urge members to support my motion.

The Hon. R.D. LAWSON: I support the motion and the reference of this bill to a select committee. I will not repeat the arguments so cogently and well put by the honourable member a moment ago: they are fresh in the memory of all members. But let me emphasise that if this bill does not go to a select committee we will be going to the further consideration of the bill here without having all the information that is necessary to form a reasoned decision in relation to the merits or otherwise of this bill. We will not have all the information necessary to consider the domestic co-dependence bill moved in another place by the member for Hartley, and that also means that the committee of this council will not have all that information when it considers the amendments that I will be moving to bring this bill into accord with the proposals of the member for Hartley.

The financial and other implications of this bill are not apparent to this chamber at the moment. It should go to a select committee. Finally I repeat, as the Hon. Andrew Evans said, that the government has presently issued a paper talking about 54 acts of the South Australian parliament that treat same sex couples differently from opposite sex couples. That discussion paper calls for submissions by 7 April, only a few days from now. It is my view that the government will be in a position then to present to the select committee evidence that they have received in submissions from the public, and we will have some indication from the government as to the direction in which it is going. I support the establishment of a select committee.

The Hon. G.E. GAGO: I oppose this motion, and I was extremely disappointed to see it put forward. It can only be interpreted as further delaying tactics in relation to the same sex super bill. I am ashamed to say that this bill has been before us in one form or another, but substantially in the form that it is in today, in another place for the past four years. For four years it has been out there in the public arena. Four years: goodness gracious! How much more time do you want? This is blatant delaying tactics.

The committee stage is yet to occur and is not proposed to occur this day, so there is still plenty of time for members to raise issues, to look at a range of amendments and to pose questions and have them answered. We are not proposing to complete or even begin the committee stage today, so I think that members have jumped ahead of themselves a bit. There is nothing to be gained whatsoever in sending this to a select committee except of, course, to delay. We do not need a select committee to consider the matters raised, for instance, in the Scalzi/Lawson proposal. There will be plenty of opportunity for us to deliberate and consider those matters through the committee stage and also to deal with the issues of costing that have been raised.

We cannot gain through a select committee that information which is not available, and a range of the costing information is simply not available. It does not exist. We are required to make the best guess, and the best guess will still be the evidence that would be provided to a select committee. There is no way that we can absolutely predict 100 per cent the costings in relation to this matter. That is for obvious reasons and reasons that have been clearly outlined that relate to people being less than forthcoming when declaring their same sex relationships, and also the way these matters have been reported.

The calculations on which we have based our estimates relate to same sex couple information that went before a senate select committee which was advised by the Australian Institute of Actuaries, and also information used in Victoria when they dealt with a similar matter. So, plenty of information is available, and it will not become less of an estimate by going to a select committee.

Select committees are notoriously slow, due to the time constraints of politicians—we are all really busy people—and there are also unforeseen events, such as illness, which slow things. We cannot guarantee that a committee will complete its deliberations by a particular time. No resolution is available that will lock us into a particular outcome. You must decide either that there are questions that need answering through a select committee, or not. To say that you need

the answers to questions that can only be delivered by a particular date is an absolute nonsense. To further delay is, quite simply, unfair and unjust. The same sex superannuation bill is quite straightforward. Currently, same sex couples are being discriminated against. We have an opportunity to rectify this, and I urge honourable members to vote against this proposition.

The Hon. A.L. EVANS: My plan is that the committee would be wound up by 28 May, and I am projecting other matters in that regard. I think it is very fair to do that. I am almost tempted, as a theologian of 40 years, to challenge some of the biblical aspects, but I will refrain. I wish that we could wait those couple of months. This is a big issue, and it involves a big change. It will discriminate against a lot of people, and they will never get the same opportunity. Some people have said, 'We will pick that up later', but that will never happen. So I say let us take the time to look at all the issues, and by the end of May we can come back to this place and push it forward.

The council divided on the motion:

AYES (9)

Dawkins, J. S. L.	Evans, A. L. (teller)
Lawson, R. D.	Lucas, R. I.
Ridgway, D. W.	Schaefer, C. V.
Stefani, J. F.	Stephens, T. J.
Xenophon, N.	

NOES (10)

Gago, G. E.(teller)	Gazzola, J.
Gilfillan, I.	Holloway, P.
Laidlaw, D. V.	Redford, A. J.
Reynolds, K.J.	Roberts, T. G.
Sneath, R. K.	Zollo, C.

PAIR(S)

Cameron, T. G.	Kanck, S. M.

Majority of 1 for the noes.

Motion thus negatived.

[Sitting suspended from 6.03 to 7.45 p.m.]

SOUTH AUSTRALIA POLICE

Adjourned debate on motion of Hon. Ian Gilfillan:

1. That a select committee be appointed to inquire into and report on the staffing, resourcing and structure of the South Australian Police (SAPOL) and the efficiency and adequacy of management of SAPOL with particular regard to—

(a) efficiency and effectiveness of SAPOL resource utilisation;
(b) allocation of personnel to special units and their responsibilities;
(c) allocation of personnel to rural police stations;
(d) the need for, and allocation of, minimum staffing levels;
(e) effectiveness of recruitment and retention of police personnel;
(f) adequacy of recruit training;
(g) adequacy of ongoing training for serving officers;
(h) adequacy of selection and promotion processes and policies;
(i) adequacy and standard of equipment;
(j) suitability of mechanisms for dealing with complaints and feedback from serving officers;
(k) methodology of collection, recording and use of personal records;
(l) efficiency of evidence gathering;
(m) resources allocated to support prosecutions;
(n) deployment of resources for prosecuting expiable offences; and
(o) other relevant matters.

(2) That standing order no. 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

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

(4) That standing order no. 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 26 March. Page 1976.)

The Hon. SANDRA KANCK: This motion has been moved and spoken to by my colleague the Hon. Ian Gilfillan but, subsequent to that, discussions have occurred. It appears to us that the motion should be moved in an amended form. The proposed amendment has been circulated and put on file. Therefore, I move:

Paragraph (1)

Leave out all words after 'report' in line 1 and insert:

on the staffing, resourcing and efficiency of SAPOL with particular reference to:

(a) resource utilisation;
(b) rural policing;
(c) the need for, and allocation of, minimum staffing levels;
(d) effectiveness of recruitment and retention of police personnel;
(e) recruitment and in-service training resources and requirements;
(f) selection and promotion processes and policies;
(g) adequacy and standard of equipment;
(h) mechanisms for dealing with internal complaints;
(i) prosecution;
(j) the role of police in and the adequacy of crime prevention programs throughout South Australia;
(k) other relevant matters.

The Hon. R.D. LAWSON: Liberal Party members will be supporting the amended motion. We were not supportive of the initial motion, which stood in the name of the Hon. Ian Gilfillan, because it seemed to us that it might be interpreted as an attempt by parliament to micro manage the South Australian police through the medium of a select committee. We acknowledge that it is undesirable and constitutionally inappropriate for parliament to interfere in the executive functions of the Commissioner for Police and interfere in his operational responsibilities. However, we believe that the select committee appointed to examine the matters which are now in the amended motion is appropriate.

We do not regard this as an assault upon the Commissioner of Police or the police department. It is an opportunity for this council to examine extremely important issues. We are not satisfied with the stewardship of this Minister for Police. His mantra that the government is funding police to attrition, because that was the promise of the Australian Labor Party at the last election, is unsatisfactory. If we were satisfied that the minister was in control of his portfolio and that SAPOL was operating in a way that did not require examination, we would not be supporting this motion. However, the fact is that not one additional police officer has been appointed under this government. This government went to an election with a pledge from Mike Rann, the clear implication of which was that the police would be better funded under this government than previously. That certainly has not occurred and there does not appear to be any way in which it will occur. There are concerns about the way in which resources are being utilised, and we think it entirely appropriate that a select committee of this chamber examine these issues.

I might indicate that my colleague in another place, the shadow minister for police, the Hon. Rob Brokenshire, did

pay very close interest to these terms of reference and had a considerable hand in their amendment. He is keen to ensure, as are members of our party, that this select committee is not seen as, and is not, a witch-hunt against the Commissioner for Police, for whom we have the highest regard. I support the motion.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I oppose the motion to establish a select committee. It is quite unnecessary. Let me begin the debate by pointing out that the Police Act 1998, part 2, section 6 provides:

> Subject to this act and any written directions of the minister, the commissioner [the Commissioner for Police] is responsible for the control and management of SA police.

That provision of the bill is quite clearly laid out to ensure that there is no political interference in the operation or management of the South Australian police force. Members of the Rann government have faith in the Commissioner of Police and his management of the police force. The establishment of this inquiry can mean only one thing, and that is that members of the Legislative Council do not have confidence in the police force. That is why the government will not be a party to this motion.

In his speech, the Hon. Robert Lawson said, I think, with respect to setting up this select committee (and I wrote the words down), that he had concerns about the way in which resources are utilised. The way in which resources in the police force are utilised is a matter for the police commissioner. To say that can mean only one thing, and that is that members of the opposition are concerned about the way in which the police commissioner is managing the force. We do not believe that that is the case, and that is why we will certainly be opposing this motion.

Sadly, it would appear that we do not have the numbers. I think the very fact that the Hon. Robert Lawson said he was not satisfied with the Minister for Police indicates the way in which this committee, sadly, will go—that is, that it will be used not as a vehicle to improve the operations of the police force of the state but, rather, as a vehicle to attack the government. To attack the government over the way in which the police force is being run is completely and utterly ridiculous. South Australia Police is a highly resourced police force, particularly in the light of the very difficult budget situation that this state faces. I know that the opposition likes to attack some of the cuts that have been made in my portfolio, and others, but this government, when it came to office, quite clearly established that law and order would be one of its high priorities, and that means having a well resourced police force, and that has happened.

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

The Hon. P. HOLLOWAY: It has. The resources available to the police force in this state have been given the highest priority by the Rann government, in very difficult times. If one looks at the figures provided by the steering committee for the review of commonwealth/state service provision put up by the Productivity Commission, one will see they show that South Australia has the second highest number of police per head in Australia, and that our police force ranks amongst the highest in almost every category. The objective evidence is there. We do not need a select committee to tell us that the police force in this state has been very well resourced. Sadly, the comments that have been made by the Hon. Robert Lawson on behalf of the opposition indicate that the opposition is just seeking to use this committee as a means of attacking the government.

There is one plea that I make in relation to the select committee, if one is established—and it certainly looks as though the numbers are there for that to happen. I urge all members to be extremely careful that individuals are not targeted by this inquiry. Unfortunately, there is, I believe, a great risk that individual officers could be vilified by vindictive accusations repeated under parliamentary privilege and—

The Hon. Diana Laidlaw: What are you referring to?

The Hon. P. HOLLOWAY: If one looks at the original terms of reference of this motion, one will see that they are extremely broad. They cover almost every aspect of police operations. I am sure that the select committee would advertise to hear evidence from witnesses—that is what select committees do. Potentially, a committee such as this will provide a magnet for everyone who wants to come and say something negative about the police. Here is the opportunity; come along. All I am doing is just making—

The Hon. R.D. Lawson: Trying to silence the union, are you?

The Hon. P. HOLLOWAY: I am not trying to silence the union at all. I am just appealing to the members of the select committee to be very careful to ensure that individuals are not targeted as a result of this inquiry, because there is the risk that individual officers could be vilified by all sorts of accusations made under parliamentary privilege. This is one of the great risks about setting up a select committee such as this. It is also one of the reasons, of course, why the government strongly opposes this move. We have a very good police force in this state. It is well resourced, and all the objective statistics show that. The last thing we want is to have a select committee that can be used to malign the police force under parliamentary privilege or, alternatively, one that distracts members of the police force from being out there catching criminals, which is their job. The last thing we want is to have police officers distracted from that important task by having to appear before a committee such as this.

It is sad, I think, that the opposition has decided to support this motion, even though it has been amended to make it somewhat less offensive than the original version. I conclude by making an appeal that the members of this committee really have a responsibility to the public of this state to ensure that the select committee is not abused. The government strongly opposes the establishment of a select committee.

The Hon. IAN GILFILLAN: I thank the Hon. Robert Brokenshire for his assistance in drafting renewed terms of reference. I also, quite naturally, want to show appreciation for the contribution of the Hon. Robert Lawson, who has equally contributed. However, in responding to the Leader of the Government in this place, I share his sadness, but in a slightly different context. I am sad that he has such little faith in one of the real attributes of this place, and that is to set up select committees that do excellent work. He seems to be convinced, without any supporting argument, that select committees carry partisan disputes and aggressive interchange into their structure. My experience of select committees in this place (which is longer than that of the Leader of the Government) has been that, once they are formed, they become largely a team seeking to do a common job. Very rarely is the work of a select committee so distorted by partisan politics that it becomes anything like the image that the leader, sadly, has portrayed about what he sees—and I am

not sure whether it is in his heart of hearts—as an undesirable aspect of this select committee.

One of the reasons for a house of review—and one of the reasons for select committees—is to have an open, impartial forum in which grievances and points of view can be heard. Those of us who have a high respect and regard for the South Australia Police know that there are people who have raised concerns from within the ranks of the serving and retired police, and they are entitled to have an impartial forum in which those complaints can be heard and analysed, and either rebutted or analysed so that recommendations can be made. It can be a forum in which the Commissioner of Police, Mr Mal Hyde, can have an open opportunity to explain areas where there may be a lack of information in the public arena at this stage, or certainly in this parliament.

I feel that it is rather mean spirited of the government to bellyache about the establishment of a select committee. I know that creatures do change when they swap from one side of the chamber to the other, because the current Minister for Police (Hon. Patrick Conlon), in his role as an opposition member of parliament and shadow minister, would have salivated at the opportunity of having a select committee to get into the details of the police force. I am sure that he would have approached the exercise constructively but, still, it would have been a robust exercise that he would have relished. I am not dissuaded from my determination that a select committee is a good thing for the South Australia Police. It may well rank amongst the best in this nation—and I believe that it does—but I also believe that there is every reason why this select committee should be set up.

I also have had discussions, as I said earlier, with members of the Police Association. I believe they feel grateful that there is an opportunity for them to raise some matters in the forum of a select committee. I believe that it will be a constructive, positive step for improving policing in South Australia, and I urge honourable members to support the motion.

Amendment carried; motion as amended carried.

The council appointed a select committee consisting of the Hons J.S.L. Dawkins, G.E. Gago, I. Gilfillan, R.D. Lawson, R.K.Sneath; the committee have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 16 July 2003.

GAMING MACHINES (EXTENSION OF FREEZE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 February. Page 1802.)

The Hon. T.J. STEPHENS: I rise to speak against the freeze on poker machine numbers in this state. I am against this freeze because it contradicts a fundamental principle upon which Australia and South Australia are based. I am also against this freeze because of the economic consequences which will continue as long as this freeze operates. I will address this point first.

In South Australia, poker machines have produced, through hotels and clubs, over 4 400 jobs in four years. They have provided $463 million in infrastructure upgrades on premises, and poker machine revenue makes up the vast majority of the $9 million that is spent on philanthropic activities, such as sporting clubs and charities. These statistics show us that while pokies supply a large amount of tax revenue to government they also provide a substantial proportion of the hotel industry's contribution to local community activities.

In the past, South Australia has been criticised that it lacks a strong philanthropic tradition. Philanthropy from successful business is much easier to encourage when you allow it to be successful, and you cannot do that when you restrict its trade. I have chatted with a number of publicans, and they tell me that if it were not for poker machines introduced in years gone by they would have 'gone belly up'. They would have had to increase the cost of meals and drinks, and they would perhaps have put themselves out of reach of the average consumer. I also make the point that businesses that already have machines are unfairly protected now against competition from hotels that do not and, certainly, I include clubs in that category. They have a higher value and are more saleable than those establishments that do not have machines.

South Australia has one of the lowest number per capita of machines in the commonwealth. New South Wales and the ACT have over 20 machines per thousand people; Queensland has 11.4 machines per thousand people; and South Australia has 10.7. Yet, if we look at Victoria, where the rate is 7.7 machines per thousand people, the level of expenditure per machine is nearly double. This suggests that the lower the rate of machines, the higher the income generated.

I am not sure that that is the real reason why the figure doubles, but the point is that there is apparently no correlation between capping or lowering the number of machines and a reduction in their usage. In fact, remembering that New South Wales has nearly three times as many machines per capita as Victoria, people in both states spend nearly the same amount per year on gambling, at between $900 and $1000 per head. In South Australia, we spend approximately half that figure. To me, the number of machines has no relation to the level of gambling.

I acknowledge that some people have a problem with gambling, and that saddens me. However, these people represent a small percentage of the population and, as I have demonstrated, the continuation of a cap will not necessarily help them. In fact, there is a school of thought that states that limiting the number of machines may make problem gamblers less willing to give up 'their' machine, because they fear that they will not get it back; thus they are denied a chance to have a break from gambling.

Whilst that theory must be further researched, I contend that gambling addicts, by definition, will not be deterred by a restriction on machine numbers, because they will go to extraordinary lengths to find and use these machines. The everyday gambler, who may have a flutter once in a while, is punished not for their actions but for the actions of someone else, just as the hotels that have gaming machines are being punished for someone else's actions.

My parents are in their seventies and they really enjoy the social activity of gambling. They use it in a responsible fashion, and it is an opportunity for them to get out and socialise. Personally, I am not a great player of poker machines, but the fact that it is not my choice is not a reason why I should not be supportive.

People who need help should be helped, but people who have no problem with gambling should not be given the so-called 'call to give up'. I believe that people should be free to choose their pastimes, and businesses and should be free to operate what is still a legal activity. Ultimately, people who have a problem still make a personal choice to gamble. They decide to go to machines, and they decide not to seek help; limiting the number of machines will not affect this funda-

mental fact. If we as a parliament want to help these people, we should be finding ways of encouraging them to help themselves, not punishing those who merely want to have a bit of fun. Quite a high percentage of gamblers are recreational gamblers, who enjoy gambling and who do not have a particular problem.

A more cynical person might make the observation that political mileage could be gained from having recurring legislation that does little to fix the problem but consistently places the issue and its activists in the spotlight. I make the point that this cap is ineffective in dealing with the problem and so should be abolished. I suggest that instead of this measure, we look at ways that we can get problem gamblers to help themselves, rather than us trying to impose a solution upon them that they will naturally resent.

The Hon. DIANA LAIDLAW: The Hon. Nick Xenophon has moved this private member's bill to extend the freeze on the number of gaming machines that operate in this state. I oppose this measure. This is a conscience issue for the Liberal Party, as gaming issues always are. It is revealing that, in introducing this bill and delivering his second reading explanation, the Hon. Nick Xenophon made very clear what his true agenda is. He said that we would be much better off without any poker machines whatsoever in South Australia.

I was one of two Liberals who supported the introduction of poker machines in South Australia when the bill was introduced by former Labor treasurer the Hon. Frank Blevins. I was shadow minister at the time and I outlined my views for support. I remain of that view.

Members interjecting:

The PRESIDENT: Order! There is too much audible conversation in the precincts of the chamber. I ask members to take notice of their obligations.

The Hon. DIANA LAIDLAW: My views in supporting the introduction of poker machines in South Australia remain the same today. The Statutes Amendment (Gaming) Bill, which was the initial bill to freeze the number of gaming machines in South Australia, came before this place on 17 May 2001, and I was prompted to support the legislation by the zeal of the then premier, the Hon. John Olsen, to cap the number of poker machines in South Australia. When speaking to that bill, I outlined all the reasons why I had initially supported poker machines but I indicated that, because the premier had asked me to support the freeze and because the community, particularly through the tabloid press and through the radio talkback programs, seemed to be supporting this measure with an increasing degree of hysteria, I was prepared to support it.

I did so, as I said, on the premier's request. I did so to bring some respite and clear thinking to the debate, and I did so on the condition that no-one should assume that, once the two-year time period had lapsed, I would necessarily continue to support a freeze on the number of poker machines in South Australia. I feel very strongly that this parliament gave to paid officers and to a new commission—the Independent Gambling Authority—the specific task to address the issue of the freeze on poker machines, and a time limit of two years was set. The commission itself was set up on 1 October 2001 and has had at least 18 months to address this issue, yet I understand that only recently has it completed a discussion paper on the matter.

I find totally unacceptable the disregard shown by this statutory body and its paid officers for the concerns before parliament and the time limit in which to produce a paper as set by the parliament. It is very unfortunate if the public sector and paid officers do not understand what it means when the parliament, some of its members rather unwillingly, provides a time frame for a public authority to prepare a paper and consider the issue of the freeze on poker machines, in this instance. I do not believe that statutory authorities and paid officials should be allowed to choose their own timetable for their work program and ignore the wishes of parliament and then approach parliament to accommodate their lack of rigour in meeting that timetable.

I believe that two years was a generous timetable for this matter to be addressed in, and I take extreme objection to the fact that, notwithstanding that generous timetable, this parliament is now being asked to consider an extension of the freeze simply to accommodate a bureaucracy that could not get its act together in time. I understand that the government also proposes to introduce a bill to extend the freeze on poker machines. If it does so, I will oppose that measure equally. I do not support this bill.

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

LAW REFORM INSTITUTE

Adjourned debate on motion of Hon. Ian Gilfillan:

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.

(Continued from 19 February. Page 1809.)

The Hon. IAN GILFILLAN: As members will remember, I sought leave to conclude my remarks and I will do so now. The example which I referred to in my earlier contribution, and which I wanted to bring into my speech this evening, related to the Alberta Law Reform Institute, an organisation that is an outstanding example of effective review. A wise advocate once said:

> Without reform, law and the legal system will create and perpetuate injustice and inefficiency. The costs of prudent reforms are far less than the costs of imprudent conservation. It is better to be a fool who sometimes rushes in than to be an angel who always fears to tread.

That advocate is W.H. Hurlburt QC from the Alberta Law Reform Institute, and I will refer to the history of the institute from a document that comes from the institute itself. Its history is as follows:

> It was on November 15th, 1967 that representatives of the Province of Alberta, the University of Alberta and the Law Society of Alberta signed the first agreement creating the Institute of Law Research and Reform. In January of 1968, the Institute formally commenced operations and held its first Board deliberations. The name Alberta Law Reform Institute was adopted in 1989.
>
> In 1967, the Law Reform Committee of the Law Society of Alberta recognised that it could not, as a part-time committee, carry on its law reform mandate on the scope which was necessary for maximum benefit.
>
> No other commission was like the Alberta Institute. Rather than lose the benefit of the previous work and connections made by the Law Reform Committee of the Law Society, these were built into the design of the Institute. So too was the formal mandate as the primary law reform agency for the province. As well as continuing these crucial operating connections, the institute was given all the conditions in which it could flourish and build its reputation of excellence. Located at the Faculty of Law at the University of

Alberta, the Institute has access to one of the finest law libraries in the country, ready access to qualified consultants and critics and a stimulating environment in which to carry out law reform work.

I imagine that members would also like to know something about the way the Alberta Law Reform Institute selects its projects for consideration, and I quote again from an Alberta Law Reform Institute document, as follows:

Project selection criteria:
The rationale for the program content includes a number of component principles:

- each project must meet a perceived community need by providing a remedy for a deficiency in the law or in the administration of justice.
- a project must be one that neither the political process nor the administrative process is likely to deal with effectively.
- each project must be one that falls within the capability of the Institute, as a group of lawyers acting with the best available advice from segments of the public and from law and other disciplines.
- the total program must make contributions both to technical areas of law and to areas of law involving social policy.

I would like to sum up with the key principles that I believe are necessary for a successful law reform institute here in South Australia, and I hope that members will take note of the success of the Alberta Law Reform Institute and the pattern that we could very easily follow here in South Australia. For South Australia, the law reform institute should be:

1. A non-political body.

2. An independent body with close links to South Australia's universities.

3. Empowered to accept projects from the government, the general public, universities and matters of interest identified from within the institute.

4. Members of the public should be able to directly participate in the law reform process, even to the extent of being a project team member on invitation from the institute.

That completes my contribution and argument for the setting up of a law reform institute in South Australia, and I urge members to support it.

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

SUMMARY OFFENCES (TATTOOING AND PIERCING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 November. Page 1294.)

The Hon. IAN GILFILLAN: In rising to speak on this bill, I must say, as I indicate further on, that there is a feeling of deja vu: this is the second time around. I indicate that, in spite of penetrating questioning from my colleagues, I have never felt the inclination to have myself pierced or tattooed. However, I do respect the choice of others, including yourself, sir, to do so. In dealing with this bill one gets a sense of deja vu, as I said, so we first look for what has been changed. Given the Democrats' opposition to the 2001 bill, we are disappointed to see that the current bill is even more onerous than the 2001 version.

The 2001 bill sought to prohibit the piercing of children under the age of 16 years without parental consent. This new bill raises the minimum age to 18 years, so a person could drive a car, get a job or pay taxes, but they could not independently choose to have their body pierced or tattooed. The record keeping provisions are the same as those in the previous bill. The 2002 bill also picks up a new provision in regard to tattoos. Under the proposed legislation there would exist a compulsory cooling-off period of three days. Debate on this issue has focused on protecting children, parents' knowledge of their children's behaviour and the medical procedures involved in piercing.

I agree with members that these are important issues. However, the question arises: would the provisions solve the concerns raised? We are far from certain that they would. We believe that the most important issue is to ensure the safety of all people, not just the young, who choose to get their body pierced or tattooed. This, we believe, would require a two-pronged approach: no pun intended—by me, anyway.

The Hon. T.G. Roberts interjecting:

The Hon. IAN GILFILLAN: I didn't write the speech, and I'm going to have a few words. I have been conned into using the word. Two-angled approach is probably a more appropriate description. First, that adequate information be available on the issues surrounding piercing and tattooing, and I encourage any honourable member who is considering getting pierced to read the material available on the topic from the Australian Medical Association. I hold it forth: I know that artefacts are not permissible as part of debate, but it has a very nice photograph on the cover and I have identified it as coming from the Australian Medical Association.

Secondly, that any piercing or tattooing occur in a clean environment and with sterile equipment by capable people, whether it be a GP or in a salon. On 23 August 2002 Sarah McDonald, Executive Officer of the Youth Affairs Council of South Australia (YACSA), wrote to all MPs on this matter. In the letter, YACSA highlighted some key concerns with the bill. These were:

- the risk of sustaining complications from a body piercing is not related to age or the level of supervision by a parent or guardian;
- all potential body piercing clients are better served by universally applicable guidelines which are enforceable, rather than by the presence of a parent or guardian for a narrow age group.
- the concerns expressed by young people and parents (who have contacted YACSA regarding this matter) relate to the safety of body piercing procedures and the opportunity to make informed decisions about body piercing, a concern that far outweighs the issue of parental consent.

The Youth Affairs Council has advocated a position of increased regulation of the 'body modification industry' with the aim of minimising health risks for all who choose to be pierced or tattooed. It highlights the examples of Victoria and the ACT, and I quote from it again:

In Victoria and the Australian Capital Territory, for example, the premises of body modification practitioners are required to be formally registered, and in some other states and territories minimum industry standards are enforced by a code of practice, most commonly informed by guidelines issued by the Australian Standards and National Health & Medical Research Council. Moreover, the industry's national representative body, the Professional Tattooing Association of Australia, has previously collaborated in the establishment of such state-based industry codes of practice.

I am impressed with the constructive approach that YACSA has taken to the bill. While it does not support it in its current form, it has suggested a number of amendments. The Democrats believe that the following amendments will improve the proposed legislation:

1. That all clauses relating to the age of a person seeking a body piercing are removed.

2. That the bill establish a set of guidelines to be observed by body piercing practitioners. We would recommend that the information recently published by the Australian Medical

Association, *Ask Some Piercing questions* be included in the guidelines, as follows:

- The piercer must use an autoclave to ensure appropriate sterilisation of equipment.
- All needles should come in their own packaging and should only be opened in the presence of the customer. The studio should be clean and hygienic.

3. Breaches of the guidelines should attract a fine of up to $1 000.

4. That all clauses referring to the presence of a parent or guardian at a body piercing be removed. This, we believe, is a sensible approach to take and I indicate that it is our intention to draft amendments to this effect.

In conclusion, I give an extra plug for this document. I commend it to any member who is interested in this exercise. I must compliment the AMA: it has written this in a user-friendly and sensitive way, not being judgmental and being very specific about the risk of infection and other damage through body piercing. I urge honourable members to look at that and read it in its entirety.

Finally, I indicate that the Democrats do not support the bill as it currently stands and if we are unable to successfully amend it we will oppose it. However, I trust that the amendments will be acceptable to the council and, under those circumstances, this legislation will improve the safety of not only the younger members of the community but also all members of the community who seek to have body piercing or tattooing.

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

ADELAIDE INTERNATIONAL HORSE TRIALS

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to the Mitsubishi Adelaide International Horse Trials made by my colleague the Minister for Tourism in another place.

RIVER MURRAY BILL

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

ADJOURNMENT

At 8.43 p.m. the council adjourned until Thursday 3 April at 2.15 p.m.