LEGISLATIVE COUNCIL

Tuesday 27 May 2003

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

WATER RESOURCES (MISCELLANEOUS) AMENDMENT BILL

Her Excellency the Governor, by message, assented to the bill.

PAPERS TABLED

The following papers were laid on the table:

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

Regulations under the following Acts—
Children's Services Act 1985—Baby Sitting Agencies Variation
Public Corporations Act 1993—
Land Management Corporation Variation
Transmission Lessor Corporation

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T. G. Roberts)—

Medical Board of South Australia—Report, 2001-02
Regulations under the following Acts—
Liquor Licensing Act 1997—Dry Areas—
Goolwa Skate Park
Mannum
Rules of Court—
District Court—District Court Act 1991—Legal Representation
South Australian Marine Spill Contingency Action Plan.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. J. GAZZOLA: I bring up the report of the committee on urban growth boundaries.

FUTURES CONNECT

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a copy of a ministerial statement on Futures Connect made in another place by the Minister for Education and Children's Services.

FORESTRY FIRE TRUCKS

The Hon. T.G. ROBERTS: I lay on the table a copy of a ministerial statement on the forestry fire track replacement program made in another place by the Minister for Forests.

QUESTION TIME

TRADE PROMOTIONS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the minister representing the Minister for Gambling a question about South Australian trade promotions.

Leave granted.

The Hon. R.I. LUCAS: In recent weeks, a number of complaints have been made by South Australian viewers of television trade promotions about the inability of South Australian viewers to participate in a number of these national trade promotions. The two most recent examples, which have been raised by these constituents, were the recent *Footy Show* photo competition and also a similar competition promoted on Channel 9's *Today* program, the prize for which was a trip to America to see a Norah Jones concert. In relation to both those trade promotions, South Australian viewers were specifically excluded from being able to participate. Questions have been asked as to why South Australian viewers were specifically excluded from the *Footy Show* photo competition, in particular.

I am advised that a range of concerns has been raised by organisers of trade promotions about the lack of flexibility in South Australia in relation to participation by South Australian viewers in these national trade promotions. I am advised that in the case of the *Footy Show* promotion all other states had guidelines which were flexible enough, in both their drafting and perhaps also their implementation, to allow viewers to participate in the *Footy Show* photo competition, but in South Australia such flexibility did not exist.

South Australian viewers were therefore excluded from participating. I have been further advised that in some cases trade promotion organisers have lodged their applications before the required 14 days notice but that red tape within government departments and agencies has meant that an answer could not be provided within the 14 day period prior to the commencement of the trade promotions. Therefore, the promotions have started with South Australian viewers having to be excluded. I understand that the two I referred to—the *Footy Show* promotion and the Norah Jones concert promotion—are not examples of this but that in other examples, when the organisers have asked for approval nevertheless to be given after the commencement of the competition as to whether South Australian viewers could then be included, the response has been that approval could not be given, because the competition had already started and that it would disadvantage South Australian viewers if they were to be allowed to participate in those national promotions after their commencement.

I am further advised that organisers of these trade promotions experience a range of other problems. They say that South Australia is the only state that will not accept a fax or email application for a trade promotion. Evidently, we in South Australia require a hard copy application to be delivered, and in many cases the organisers have to arrange for a courier to deliver an application in hard copy. Without going into the detail, the organisers have raised a number of other problems in relation to the inflexibility as they see it of trade promotions guidelines here in South Australia. My questions to the minister are:

1. How many trade promotions since 5 March last year have South Australian viewers been specifically excluded from, having received an application from the organisers?

2. In particular, for how many of those trade promotions was the required 14 days notice given to the public servants or department involved and a response was not able to be provided within the 14 days?

3. Is the minister prepared to have a review of the trade promotion guidelines and in particular the implementation of those guidelines, based on the practice in other states and territories, to see whether or not there is some capacity for either an amendment to the guidelines or for some flexibility in the implementation of those guidelines, with the objective to ensure that South Australian viewers can participate wherever possible in these national trade promotions?

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

The Hon. A.J. REDFORD: As a supplementary question: will the government consider changing the laws and procedures only after Collingwood changes its attitude to its security blanket, otherwise known as its jumper?

The Hon. T.G. ROBERTS: I will refer that question, which I know is a matter of importance to many people, to the minister in another place and bring back a reply.

PRISON FACILITIES

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about new prison facilities.

Leave granted.

The Hon. R.D. LAWSON: Earlier this month it was revealed that the Department of Human Services in the South Australian government has prepared a proposal for the collocation of an 84-bed juvenile detention centre with the proposed new women's prison at or near the Strathmont site in the north eastern suburbs of Adelaide. This proposal was deprecated by the Public Service Association and a number of social workers who expressed concern that the mixing of juvenile offenders with adult offenders is contrary to good practice.

The Minister for Social Justice (Hon. Stephanie Key) is quoted as saying that juvenile and adult populations should not be mixed in detention centres. However, she did not rule out the collocation of those centres, which can, of course, occur without the two populations being physically mixed. The Secretary of the Public Service Association, Jan McMahon, is quoted today as saying:

> For the Government to be actively considering such an option without consulting the community, and without community debate, may suggest that such a proposal would not enjoy strong community support.

A masterly piece of understatement! It was also announced today that correctional services officers at the Adelaide Women's Prison were to take industrial action earlier today. My questions to the minister are:

1. Has the Department of Correctional Services been consulted in relation to the proposal of the Department of Human Services regarding collocation of these facilities?

2. Does the minister agree that collocation of juvenile and women's prison facilities would be undesirable?

3. Did the industrial action at the Adelaide Women's Prison take place today; if so, did it relate to this proposal to which I have referred and what effect did it have on the operations of the prison; and what action is the minister taking to address these industrial concerns?

The Hon. T.G. ROBERTS (Minister for Correctional Services): The honourable member asked a number of questions relating to a number of fields of responsibility, some of which are mine, some relate to the Minister for Youth Affairs and some to the Minister for Infrastructure in relation to new prisons. I will answer the last question first as it does fall within my area of responsibility. Regarding action taken by the PSA in relation to the women's prison, I was notified on the weekend that women prisoners would be locked down earlier because the PSA had claimed that there was a shortage of staff (with reference to the number of correctional services officers required at a certain staffing level) and had laid a claim for extra staff on the department. That claim is being processed at the moment.

Regarding what industrial action took place, as I said, the government is not happy with early lockdowns; no government would be as it takes away the small amount of flexibility that exists within prisons (particularly within the women's prison) for women prisoners to use other areas of the prison and, in many cases, the sleeping accommodation is unsuitable for anything other than sleeping. We are not particularly happy with this situation, but negotiations are continuing.

Regarding the mixture of categories of prisoners in one particular area, the Minister For Youth and Community Services is responsible for programs relating to young people in prisons. In relation to what we are doing, as I have reported to the council on a number of occasions, a number of options are being considered in relation to the building of new prisons using a PPP system. Responsibility for the PPP is in the hands of the Minister for Infrastructure in another place. The responsibility for safe protective custody for our young people is in the hands of the Minister for Youth Affairs, and, in relation to one of the questions: 'Has the department been consulted?', the answer to that is yes. The department has been consulted in relation to the PPP. All options are being considered. As to the question about progress, I will have to take that on notice and report back to parliament.

The Hon. J.F. STEFANI: Would the minister be able to advise the cuncil what rehabilitation programs are currently being implemented in both the women's and the youth prisons systems, and if the collocation of the young prisoners is going to occur what plans are there to institute the appropriate rehabilitation programs necessary for a mixed population in prisons?

The Hon. T.G. ROBERTS: The responsibility for rehabilitation and rehabilitation programs does rest with the correctional services system in relation to those areas for which we have responsibility. As I have said on other occasions, the rehabilitation programs in some categories are modest; in other cases I would find them adequate. In those areas that we can improve on, we will improve on over time in relation to budget strategies. In those areas where we have programs that are being run that are either equal or better than interstate, in some cases you have to work out whether they can be improved, and certainly we are trying to transfer intellectual property and gain financial reward for some of the programs that are run from some of our government institutions. That is something that we will be looking at in the future. As far as rehabilitation programs for young offenders are concerned, I will have to consult with the Minister for Youth Affairs and bring back a reply.

The Hon. KATE REYNOLDS: I ask a supplementary question: given that most women are in prison for non-violent crimes and that many of the offenders in the juvenile justice system have a record of violent crimes, does the minister consider that it is appropriate that these two groups should be collocated?

The Hon. T.G. ROBERTS: I have visited prison systems where there are different categories of prisoners that are in the same proximity using teleports and transfer systems that do keep prisoners separate. There are some prisons that have the administration block and then have the sections built off the block. I am not saying that that is going to be the circumstance here, as the PPP will be drafted in a way that will maximise the state's interest in relation to how we deal with

prisoners, and that will be dealt with under the PP process. But I just say at a personal level that there are ways in which you can mix categories of prisoners, but without contact. I certainly would not appreciate the mixing of juveniles, young prisoners, with older prisoners and I am sure that is not the government's intention.

FISHERIES ACT

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

Leave granted.

The Hon. CAROLINE SCHAEFER: In addition to the public consultation process that has taken place on the development of a new Fisheries Act, the minister has set up five working groups with specialist expertise to have input into that review and into the development of the white paper. As I understand it, these groups are commercial, recreational, departmental, conservation and indigenous. My questions to the minister are:

1. What involvement have these five working groups had?

2. What input have they had to the development of the white paper?

3. How many times have they met, and with whom have they met?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Obviously, in relation to the latter question, I will have to obtain from the department the information as to the number of times they have met. However, the input those groups have had is considerable. If we take the indigenous group as an example, we see that a number of issues are involved with indigenous rights as they relate to fisheries. I understand that other acts in other places such as the Northern Territory, Western Australia and other states recognise traditional indigenous fishing rights in various ways. It is an area that our Fisheries Act does not reflect because it was passed by this parliament in the 1980s.

One would expect that, from the work done by that committee and when it gets fed through to the overall Fisheries Act review committee, its recommendations would include some changes to that area to reflect the sorts of modern legislation we have in this area. Similarly, with all those other groups, from the reports I receive from time to time I am aware that all those groups have performed some very important and credible work in relation to updating the Fisheries Act in their respective areas. That will be reflected when that work is consolidated and the white paper on the Fisheries Act is released.

The Hon. CAROLINE SCHAEFER: As a supplementary question, how can the minister say that those groups have had considerable input into the development of the white paper when my information is that some of them have met only once, if at all?

The Hon. P. HOLLOWAY: I will get the information on whether or not they have met. Certainly, the members of the respective groups are by and large reflected on the Fisheries Act review itself. So, those groups have that input into the Fisheries Act review. I will find out how often those individual groups have met. However, I have had significant correspondence from some of those. I am sure that the people involved in the commercial group, for example, have their own group such as the Seafood Council and other various bodies that represent the industry, as well. Of course, some of those individuals on those respective groups are also heavily involved in the Fisheries Act in other areas. As I said, if the honourable member wishes to refer to any one of those groups, I will have a look at the matter. However, as far as those key issues are concerned, it is my understanding that they will have a significant input when the views are consolidated into the Fisheries Act report.

The Hon. CAROLINE SCHAEFER: As a further supplementary question, does the minister mean that they have had considerable input or that they will have considerable input?

The Hon. P. HOLLOWAY: The Fisheries Act review process is not complete at this stage. As the honourable member stated in her earlier question, a series of meetings has been held around the country, and I have reported on those in previous answers to this parliament. That was obviously the first stage. It was expected that the views of the various groups and the views expressed in those public meetings would all be consolidated and reported in the Fisheries Act review report. I would expect that report to be released fairly soon, but I will get an update. I have no reason to believe that that process is not working smoothly. I am certainly not aware of any hitches but it has been some time since I had a report on the progress of that report so I will be happy to report back to the council.

RECONCILIATION WEEK

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

Leave granted.

The Hon. J. GAZZOLA: I am aware that the minister officially launched Reconciliation Week in Tarndanyangga, or Victoria Square, this morning. For both indigenous and non-indigenous South Australians, Reconciliation Week is an important event for many reasons. Clearly, for those of the stolen generations this is an emotional time. My question is: given that this is Reconciliation Week, will the minister inform members of activities planned during the week?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question and his interest in Aboriginal affairs. This is a long week for Aboriginal people celebrating reconciliation, and for the community to work towards reconciling differences between Aboriginal and non-Aboriginal people in our community. Yesterday was Sorry Day—that was well attended in Tarndanyangga Park (or Victoria Square). The celebrations and the grieving processes that are a part of Sorry Day were well attended, and certainly schools and other groups within the state participated very broadly.

Reconciliation Week is a week full of programs designed to draw Aboriginal and non-Aboriginal South Australians together. The programs run for the whole of the week in the metropolitan area, and I must pay tribute to those councils that are participating at what I regard as a serious level within this program in the metropolitan area. I pay tribute to the Marion City Council and the northern metropolitan community councils, which are the councils participating. It is or will be a full and complete success when we have councils across South Australia being active in bringing together the communities they represent through the processes of reconciliation. So, with the start of the week we have

tabled the document Bringing Them Home, which is the annual report for 2002 which has many good recommendations in it. With the celebrations, discussions and debates that have been organised for this week, we hope to be able to include and draw together a wide range of South Australians through participation in Reconciliation Week for this year.

SEXUAL ASSAULT COUNSELLING

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Social Justice, a question about sexual assault counselling services.

Leave granted

The Hon. SANDRA KANCK: Following a question I asked last year about waiting lists for sexual assault counselling, I have been informed that there is a disparity between services offered in other states and what is currently available in South Australia. Also, there is intense pressure on existing services here. Initial or crisis counselling, which is within 72 hours of sexual assault, continues to be delivered. However, follow up counselling services for people who do not have private health insurance involves lengthy waiting lists. The period of time in which victims of sexual assault are extremely vulnerable varies from client to client. Being unable to have expert confidential counselling when the need arises adds to the isolation and alienation that victims experience.

New South Wales has over 50 sexual assault counselling services, while Victoria has more than 15. Even the Northern Territory has more services per capita than South Australia. Yarrow Place, the principal sexual assault referral centre in this state, operates only in office hours, and most clients receive only four to six sessions of counselling. South Australian regional services in particular are inadequate, particularly when one considers that anonymity cannot be guaranteed in smaller communities. My questions are:

1. Does the minister consider that sexual assault is a significant public health issue?

2. Will the minister confirm that other states provide a higher per capita level of resources to clients in the area of sexual assault services?

3. Will there be funding for a best practice model of services delivery for sexual assault in the coming financial year?

4. Will the government support an increase in regional sexual assault services?

5. Will the government assure victims of sexual assault that, in the future, there will be a coordinated referral service capable of providing informed and timely assistance at the time of crisis, regardless of how far out from the assault the crisis is experienced?

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

ABORIGINES, SUBSTANCE ABUSE

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about petrol sniffing and other inhalant abuse amongst indigenous communities.

Leave granted.

The Hon. NICK XENOPHON: The Northern Territory Coroner, in his findings in a 1998 inquest concerning the death of Kunmanara Muller, a 14 year old petrol sniffer, stated that there ought to be a noting by medical examiners of a deceased's history of inhalant abuse—even if the death could be attributed to, for example, asphyxiation or heart failure—the establishment of treatment and rehabilitation facilities and the increased cooperation of government agencies in the tri-state area. Further, I have a media release dated 9 December 2002 headed 'Coronial inquest into petrol sniffing deaths highlights that there has been too much talk and not enough action,' released by representatives of the AP lands.

The media release made reference to the findings of the coronial inquest undertaken by Coroner Wayne Chivell in May and June of that year (that is, 2002) which highlighted the fact that there had been too much talk and not enough action in the AP lands to halt the tragic deaths caused by petrol sniffing. It went on to highlight that the Coroner found that government agencies had taken too long to act and were missing prompt, forthright, properly planned and properly funded action. It referred to the Coroner's stating that he detected a general feeling among the Anangu who gave evidence at the inquest that they wanted more protection and security from the South Australian police department.

It also made reference to AP Chairman, Owen Burton, who said that it was time for the government to stop talking and start implementing programs to stop 'our children and our relatives dying on the lands'. He made a number of recommendations. He made reference to the Coroner's findings and called on the government to implement those findings. Given the length of time that has elapsed since the Coroner made his findings, what specific steps has the government taken to implement the Coroner's findings; and what, if any, other steps have been taken to reduce the scourge of petrol sniffing and inhalant abuse in indigenous communities?

The Hon. R.D. Lawson interjecting:

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question. It is true that the question has been asked before in this chamber, and I did give an update on what the government was doing in relation to the Coroner's report. The government is acting not only on the Coroner's report but also on the Aboriginal deaths in custody inquiry, which makes many references to a whole range of issues associated with the problems of petrol sniffing, alcohol and drug abuse and the violence within communities. It is unfortunate that our communities have slipped to a point where they are almost totally dysfunctional. It is impossible to put the required resources into the communities overnight until we have an understanding across government—that is commonwealth and state—about the programs that are required in the short term (that is immediately), the medium term and the long term.

Those programs are being discussed, and have been discussed, as the critics pointed out. A lot of policies are being developed, not just in the AP lands but in conjunction with the AP. The AP executive, which is a party to those discussions, is making requests. I met as late as Friday with the traditional owners and elders who have their own views, although shared by the AP executive in the main. The elders have a view on how we should be dealing with petrol sniffers and how they would like to deal with the breakdown in the communities that has occurred over the past 15 years.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. ROBERTS: The elders are saying that they would prefer to see money put into programs directly linked to culture, rather than the money being paid to organisations with large bureaucracies for health or health-related programs. Their solution is to take offenders within communities into outback areas, that is, camps away from the townships; similar to the Break Away program running in Ceduna and Port Augusta where young Aboriginal people, who are detected petrol sniffing or involved in drug or alcohol abuse or anti social behaviour generally, are taken out of the communities, instructed in law and culture, and given the opportunity to break the cycle in which they are involved—to get away from their cohorts. We will be supporting that as one part of the total programs that need to be put in place.

Other larger communities are saying that the first thing they want is an increase in policing at a local level. They want to see more police in the centre of the lands, perhaps somewhere around Amata, and more police on the Western Australia-South Australian border. Those issues require extra funding, but they are considerations the government is taking in relation to the seriousness of the problem. We must have a multitude of responses, and many of them will have to be endorsed by the elders and the communities in order to make them more responsive to take ownership of those programs. It is not a matter of our imposing programs on the communities, financing them and then walking away from them: we must do it in partnership. That partnership means agreement in respect of the way in which we wish to proceed.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. ROBERTS: One of the difficulties is that there is no spare housing within the lands in which professional people can reside for any length of time. Some visitors' accommodation is available in Umuwa, which is generally taken up periodically by visiting workers, both commonwealth and state, who move through the lands, and some houses, which have been abandoned by Anangu for cultural reasons, may be used. In order to get the programs upon which the commonwealth and state have now agreed, a COAG agreement has been put in place for a pilot program using commonwealth and state funds and facilities. That has been in place for about six to eight weeks. The commonwealth has at least three people on the lands making assessments for the introduction of the pilot program, to which COAG has agreed. That is a combined program with the AP, South Australia and the commonwealth. I have made an application for program funding, and I hope to make an announcement after the budget has been delivered.

The Hon. A.J. Redford: Do you think we might get a report out of the select committee?

The Hon. T.G. ROBERTS: I would hope that enough members of the select committee could form a quorum as soon as possible to discuss some of its directions and start pulling together the recommendations that will arise from the information that we have been given. I think there is still evidence to be collected and witnesses to be heard, but that is up to the select committee. As far as—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: One of the problems we have with this issue is that the deterioration within the communities has been taking place for some considerable time. We are now at a point where all commonwealth and state agencies are aware of the issues, and we now have to work with the Anangu to pull together the programs that are acceptable and culturally workable within that area. As I have said, housing is a major problem. We need youth workers, and we are able to put some in place in the near future. We are currently advertising for a coordinator of youth workers and hope to get three or four youth workers into the area ASAP. At this stage we cannot ask youth workers to go into the area if there is no accommodation, so we have to start building or finding homes and accommodation for these people to be able to do that. It is no small task; it is a task that has to be put together deliberatively and collaboratively, and it has to be done—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: There is a sense of urgency. I think the honourable member's interjection is appropriate. There are no guarantees that we will not have more deaths in the short term, because we now have many long-term sniffers in the community whose mental and physical health are at risk. We also have many medium-term sniffers whose physical and mental health are at risk, and they are a risk not only to themselves but also to the rest of the community. It is an issue on which we have to work across agencies.

Tier 1, which is made up of the multi-agency bodies—health, housing, youth services, DOSAA and all the agencies that you would expect to be working at tier 1—has representatives and senior bureaucrats. Tier 2 has commonwealth and senior state bureaucrats. Tier 1 also has community representation on it. They are wrestling with these difficult issues, and we would hope that we could progressively put together a wider range of programs on which I will make a report in future and which will be instituted as soon as we can have them drawn up and accepted by the communities themselves, so they can take ownership of them.

There is also the issue of a correctional services or retention treatment facility that the Coroner in the Northern Territory and Wayne Chivell have requested as an alternative to prison sentencing. That is also something the government is looking at. Given the attention that we have given in debate in this chamber to the select committee's investigations into, and future report on, the issue of Aboriginal health within these communities, it is certainly on the record that opportunities and choice have to be a part of addressing that total issue. Employment opportunities and the elimination of poverty are other, broader issues that will take much longer to complete, but we must work on them at the same time as we work on all the other remedial programs that are required.

The Hon. R.D. LAWSON: I have a supplementary question. Does the minister agree that the community will be able to judge the commitment of the government to the issue of petrol sniffing from the results of the budget later this week?

The Hon. T.G. ROBERTS: There will not be one single budget from which the honourable member will be able to be judge those results. Funding has already been given to organisations on the lands. Nganampa Health has been given a sizeable amount of money to deal with the problem, and the NPY women's group has been given allocations of funding. Other funding regimes will attract attention as well as this government's commitment.

I am relatively relaxed about the way in which everyone is pulling together. It was a difficult task, and if you had asked me the same question 12 months ago I probably would have said that I was disappointed with the attention that the region was getting because of the lack of activity being shown by some agencies. At this stage, it is through Tier 1, through Tier 2, and through the COAG pilot program, and everyone now (at a political and bureaucratic level) is aware

of the problems. Regarding funding regimes, in some cases, the programs will not take a lot of funding, but I think the member will be pleasantly surprised when the budget is handed down.

GOLDEN GROVE POLICE STATION

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the minister representing the Minister for Police a question about the Golden Grove police station.

Leave granted.

The Hon. J.S.L. DAWKINS: On 21 October last year and 3 April this year I asked questions in this place regarding the proposed police station at Golden Grove. This police presence in a rapidly growing area of Adelaide, which was promised by the previous government early last year, has failed to materialise under the current government. This is despite the campaign for such a police presence by the member for Wright in another place prior to the 2002 election and discussions held with potential local landlords by ALP caucus members during the election campaign.

I have not received any response to my questions, although the former police minister (the member for Elder) did make a noncommittal statement to the *Leader* Messenger in response to questions from the community which were raised in that newspaper. My question to the new Minister for Police is: will he respond to the increasing community concern about the lack of government action on this issue by announcing the establishment of a police station at Golden Grove?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I think Golden Grove has been established for about 20 years now; it has been a long time. I did not know there was a lot of activity in that area under the former government, but I will pass the question on to the new Minister for Police and bring back a response.

ELLIS, Mr A.C.

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the minister representing the Premier a question about Allan Charles Ellis.

Leave granted.

The Hon. A.J. REDFORD: On 28 April last, the Premier announced that Executive Council had rejected the Parole Board's recommendation that Allan Charles Ellis be released on parole. Mr Ellis was convicted of a racially motivated murder in which he hit the young Aboriginal victim with an iron bar, following which his accomplice drove backwards and forwards over the victim. The Premier quite rightly referred to the heinous and outrageous nature of the crime which shocked our community conscience.

The Premier in his statement suggested that the Parole Board was not required to have regard to community safety in the course of its deliberations. The parole legislation requires the board to take into account the likelihood of reoffending when conditions are imposed or in determining release, and in that respect I draw members' attention to section 67(4)(c) of the act.

It has now come to my attention that the pathologist who examined the victim immediately after the reporting of the tragic death was Dr Manock. He prepared a report and in his report he said that the injuries received were as a result of 'leaving a motor vehicle', and that is at page 130 of the transcript. In other words, his initial report was consistent in this respect with accidental death.

It is important to understand that it was only three years later that Ellis and Niewdach were apprehended. It was then that they confessed that they had hit the victim with a pipe and had driven a vehicle backwards and forwards over the body. He also suggested that clothing or corduroy marks on the skin were consistent with falling out of the vehicle. There were other matters which gave some cause for concern, including the time of death, the position of the body, whether it had been placed or rolled there, and issues relating to the bruising.

As I understand it, the differences between what actually transpired and the potential scenario painted by Dr Manock shortly after the murder were very very different. In the light of that, my questions are:

1. To what extent did Dr Manock's original report cause a delay in the apprehension and prosecution of Messrs Ellis and Niewdach?

2. Will the Premier cause an immediate review of all cases and reports undertaken by Dr Manock to ensure other investigations are not unnecessarily delayed or adversely affected by misleading conclusions?

3. Will the Premier confirm that the Parole Board does take into account community safety when it considers cases and, if not, will the Premier disclose which decision or decisions the Parole Board has taken which have failed to consider the issue of community safety?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I believe that those questions would be more appropriately addressed to the Attorney-General, and I will refer them to the Attorney. I am aware that there is a motion before the council at present in relation to certain allegations made against Dr Manock, and I believe my colleague has responded on behalf of the government in relation to those. But given the significance of those matters I will refer it on and bring back a response.

SOUTH AUSTRALIAN RESEARCH AND DEVELOPMENT INSTITUTE, SCIENCE BURSARY

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question on the award of a science bursary by the South Australian Research and Development Institute.

Leave granted.

The Hon. CARMEL ZOLLO: In 1994 the South Australian Research and Development Institute (SARDI) established the Centenary of Women's Suffrage Science Bursary, as part of the Suffrage Centenary celebrations, to encourage and support the advancement of women in science. Can the minister advise the outcome of the SARDI Centenary of Women's Suffrage Science Bursary for 2003?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for her question, and I can inform her that Davina Gregory, a student of Adelaide University, is the recipient of the 2003 SARDI Centenary of Women's Suffrage Science Bursary. The award was given for Ms Gregory's work on the development of a genetic linkage map for almond breeding, and its application for mapping traits of horticultural importance. Ms Gregory's project aims to identify molecular markers linked with agronomically important traits in almonds and concentrates on developing markers for self-fertility, shell hardness, kernel

size, double kernels, taste, bloom time, nematode resistance and bacterial spot. These characteristics are all currently limiting the productivity of the almond industry.

The outcomes of the project are expected to provide opportunities for the almond industry to improve its productivity. Almonds are an important horticultural tree nut crop in South Australia, currently worth an estimated $19.7 million to this state alone. The bursary from SARDI provides Ms Gregory with the opportunity to travel to Europe to enhance South Australia's collaboration with researchers overseas and to exchange ideas, information and expertise with one of the world leaders in almond genetic linkage mapping. I congratulate Ms Gregory on her winning that bursary.

SHOP TRADING HOURS

The Hon. IAN GILFILLAN: I ask the Leader of the Government in the council: did he take note of the article this morning in the *Advertiser* regarding the legislation on deregulation, or partial deregulation, of shop trading hours and the quotes the *Advertiser* gave, with some glee, that retailers predict up to 5 000 new jobs, and also expect an extra $500 million to be injected into the state's economy?

An honourable member: Fifty million.

The Hon. IAN GILFILLAN: Five hundred million—that is what the retailers predict and the *Advertiser* quotes with glee on the front page. Does the leader agree with the retailer's estimate; if not, what is the government's estimate? Does the government have an estimate of how many jobs will be lost and businesses closed in the small retailer sector as the major supermarkets take even more of the South Australian consumer dollar? Does the leader have any idea where the extra $500 million will come from? Will it just emerge from the ether, or will it be drained from existing areas of the economy? As the opposition does not believe that this proposed government bill goes far enough, how many extra jobs and how much extra funding that could be injected into the South Australian economy are the government denying South Australia by not going all the way with the Liberals?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): A most provocative question, asked of members of both sides of the chamber! I will seek to clarify—

An honourable member interjecting:

The Hon. T.G. ROBERTS: I might have to do that, as well. I will refer the questions to the appropriate minister and bring back a reply.

The Hon. J.F. STEFANI: I have a number of supplementary questions. Can the minister advise the council as to the estimated number of couples who will institute divorce proceedings because of the problems associated with extended shopping hours? What social consequences does the government think there will be because of extended shopping hours? What provision has the government made in terms of social support and other services that will be required by broken families and as a result of other social issues? Does the minister foresee that some of the social problems that will occur will also impact on greater prison numbers?

The Hon. T.G. ROBERTS: A lot of long bows have been drawn there! I will refer those questions to the minister in another place and bring back a reply. It may be that we will have to weigh up the number of marriages that break down due to extended shopping hours against the marriages that might be saved during the same period.

The Hon. J.F. STEFANI: By way of further supplementary questions, can the minister also have the government estimate how many businesses will be subjected to bankruptcy? What does the government intend to do about the loss of jobs in the small business sector when bankruptcy occurs?

The Hon. T.G. ROBERTS: I will refer those questions to the minister in another place and bring back a reply.

The Hon. DIANA LAIDLAW: As supplementary questions, I ask the Minister for Industrial Affairs also in his capacity as Minister for Transport: has he undertaken an assessment of additional public transport services required to service the additional shopping hours he is proposing? What is the cost of those services? Will they be up and running to meet the new proposed shopping hours?

The Hon. T.G. ROBERTS: I will refer those questions to the minister in another place and bring back a reply. I also offer each member who has asked questions in question time in relation to shopping hours the opportunity to give evidence at the shopping hours committee which is now running. That is an advertisement, free and unpaid!

SCHOOL CROSSINGS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, questions about school road crossing dangers.

Leave granted.

The Hon. T.G. CAMERON: The *Advertiser* recently carried an article stating that students at six metropolitan schools face potentially serious injury from traffic every time they go to and from their schools due to poorly designed pedestrian crossings. The problem schools named are: Dover Gardens Primary School, Munno Para Primary School, Glenunga International High School, Parafield Gardens High School, Christies Beach High School and Mercedes College. Streets around the schools have been classified hazardous for student pedestrians by the RAA, which has long lobbied for traffic calming modifications to be made in the school zones. In the past two years, one student has been killed and eight others injured in three separate accidents involving students at pedestrian crossings.

According to the RAA, the problem is that lack of definition in some school zones makes it difficult for drivers to recognise the need to slow to 25 km/h. Drivers entering these school zones recognise too late that they are school zones and, despite trying to slow to 25 km/h, they often pass through the zones at speeds in excess of 40 km/h. The recent unfortunate accident where two people were hit by a car near Siena College reinforces the need for prompt action on this issue. My questions are:

1. Will the minister direct the Department of Transport to immediately investigate the road crossing dangers of the six schools referred to and, if required, undertake to make any changes necessary to ensure student safety?

2. Will the minister also undertake to write to the principals of the six schools to inform them of the results of the investigation, and of any remedial action that is to be taken?

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

WATER SUPPLY, EYRE PENINSULA

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Environment and Conservation, a question on Eyre Peninsula water.

Leave granted.

The Hon. D.W. RIDGWAY: On 1 May 2003 I asked a question of the minister concerning funding for the position of catchment management officer on Eyre Peninsula. The position is set to be withdrawn from the region on 30 June unless extra funding is found before this deadline. I have not yet received an answer to this question, although I am assured that the minister is aware and responsive to the questions and speeches of members of this chamber. I have already received a detailed point-by-point response to the speech I gave on 13 May on the River Murray Bill (the minister's department was obviously quick to defend the bill) but I have not received an answer on the position of catchment management officer. Given this government's passionate commitment to the environment, and that the minister's own department has written to me at length on just how the River Murray Bill will restore and enhance the River Murray, will the government demonstrate its commitment to these aims by funding a position which covers the whole of Eyre Peninsula? My questions are:

1. When will I receive a response to my question?
2. How is the minister going to replace the knowledge and skills of the current officer, whose position will expire on 30 June 2003?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs): I thank the honourable member for his questions. I will refer his questions to the minister in another place and bring back a reply.

SOUTH AUSTRALIAN RESEARCH AND DEVELOPMENT INSTITUTE

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question regarding SARDI publications.

Leave granted.

The Hon. T.J. STEPHENS: I asked the minster late last year about a booklet entitled 'Wine Grape Irrigation and Soil Nutrition' and when it would be published. The minister in his response stated that the manuscript would be with a publisher by the end of March 2003. I have recently been contacted by constituents who have been unable to find this publication. My question is: can the minister inform the council as to whether this publication has been made available to the public at this time?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will ask SARDI whether it has published the booklet yet.

SUPPLY BILL

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

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

That this bill be now read a second time.

This year the government will introduce the 2003-04 budget on 29 May 2003. A Supply Bill will be necessary for the first few months of the 2003-04 financial year, until the budget has passed through the parliamentary stages and received assent. In the absence of special arrangements in the form of the supply acts, there would be no parliamentary authority for expenditure between the commencement of the new financial year and the date on which assent is given to the main Appropriation Bill. The amount being sought under this bill is $1 500 million. Clause 1 is formal; clause 2 provides relevant definitions; and clause 3 provides for appropriation of up to $1 500 million.

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

RIVER MURRAY BILL

Adjourned debate on second reading.

(Continued from 26 May. Page 2389.)

The Hon. NICK XENOPHON: I indicate my support for this bill on this most important issue. The issue of the health of the River Murray, and indeed the health of our state in the context of the River Murray's importance, is, in many respects, an issue affecting a number of states. Some would say that it is a federal issue, but it is important that there be a strong state response. In terms of some of the many articles that I have read in relation to the Murray over the years, I refer to an article written in the *Australian* by Amanda Hodge on 31 March 2001 which states:

> State parochialism has again blocked efforts to repair Australia's mightiest river, with New South Wales and Victoria yesterday scuttling a federal government plan to flush out the River Murray at its mouth. At the same time, the plan from federal environment minister Robert Hill was attacked from within cabinet ranks, with National Party Leader and Deputy Prime Minister John Anderson rejecting the proposed extra 425 gigalitres of annual water flow for the lower Murray.

The article quotes the National Party Leader Mr Anderson as saying:

> The National Party will not allow the rights of farmers and irrigators to be disregarded in the interests of environmentalists in other states.

I take fundamental issue with what the Deputy Prime Minister has said because that is a selfish approach: it is an approach that has catered to vested interests in other states further upstream, particularly cotton growers, and it is an issue that has deeply affected this state.

This bill attempts to deal with that issue in a number of fundamental respects. I am pleased that in the other place the government took on board a number of opposition suggestions, as moved by Mark Brindal, and was prepared to take those amendments into account, along with amendments from the cross benches. That is something that I believe is important; that is, there ought to be a bipartisan approach on an issue as fundamental as this. It is important that this bill be seen in the context of an ongoing struggle to rejuvenate the Murray to ensure long-term viability of water supply in this state for our farmers and irrigators (together), as well as all the consumers who rely on the River Murray for their water supply.

I note that an amendment is on file from the Hon. Terry Cameron relating to a review to be undertaken by the end of the 2004-05 financial year and that the outcome of that review be reported on as part of the minister's annual report to parliament for that financial year. That seems to me to be a very sensible suggestion and, if the government does not support it, I would like to hear a comprehensive reason as to why it does not think it is appropriate to support that particular amendment. I also note that the Democrats are opposing setting up a natural resources committee, as I understand it, on the basis that the Environment, Resources and Development Committee is the appropriate committee to oversight this legislation. Again, I would be pleased to hear further from the government in relation to whether it believes that we do need a new committee or whether the ERD committee can deal with these issues.

On that basis, I support the second reading of this bill. I hope that it has a speedy passage. I believe that it is important that we monitor the effectiveness of this bill to ensure that it does what it is meant to do; that is, ultimately to restore the health of the River Murray and its vital role in our community.

The Hon. J. GAZZOLA: I will not document the silos of information on the state of the Murray; suffice to say that working towards restoring the health of this system is a fundamental priority of the Labor government. This bill can have only one outcome, and we all know that it must be successful. It is good to see in this parliament such a strong bipartisan spirit to achieve this end. However, there has surfaced during the bill's transition through the other place a few central concerns that I wish to address. These include the encompassing scope of the amendments, the power of the minister and the supposed check on development. If any member is in doubt, though, about the need to embrace the spirit of this bill, let me direct the argument to a little of the history of the plight of the Murray-Darling Basin.

I recommend Dr Peter Cullen's speech to the national conference last year. In pre-federation days, managing the Murray was a problem for the colonies adjoining or containing the rivers. As an example, the boundary between New South Wales and Victoria, for much of its length, runs on top of the bank on the Victorian side of the river. As a major means of transport during the 1880s, diversions of water from the river raised conflicts over navigation. Discussions on locks and navigability took place in 1863 and, while the parties were in agreement, little resulted. The cynic in me says that little has realistically changed.

Many other conferences were held over the next 40 years but, again, with the same result due to 'the prevailing parochialism of the three colonies at the time'. It took a severe drought that extended from 1895 to 1902 to bring the colonies/states together again, resulting in a non-government conference in Corowa in 1902, which precipitated action which resulted in a workable relationship between the states. Back to the future again. It was not until 1915 that an agreement was forged between the commonwealth and the states of Victoria, New South Wales and South Australia. It took another two years to establish the River Murray Commission to effect the agreement. This is not to decry the intentions and efforts of various agencies to effect positive change to this date, but to chronicle the difficulties of marshalling the necessary degree of unity and purpose to resolve this historical and contemporary conflict.

Throughout the 1960s we witnessed the issues of salinity and the inevitable increasing role of the commission in the 1980s in regard to water quality and environmental and land degradation. These emerging difficulties and the realisation that these critical issues extended across state boundaries were evident in the many inquiries and recommendations for urgent action that were initiated by the commission, governments and concerned individuals and groups. These mounting concerns and pressures were addressed in 1985 in a meeting in Adelaide, but it took another two years for the Murray-Darling Basin agreement to be realised.

This historic agreement was recognition of the multi-government approach needed to address the urgent issues of the basin. This agreement was signed by the governments of the commonwealth, New South Wales, Victoria and South Australia in 1987 as an amendment to the River Murray Waters Agreement of 1915. In 1992, a totally new Murray-Darling Basin agreement was signed, and the new agreement was given full legal status in 1993 in the Murray-Darling Basin Act passed by all contracting governments. The bipartisan approach of South Australian governments is recognised in the initial signing by the state Labor government in 1987 and again in 1992 by the then state Liberal government, and in 1998 in regard to participation in the act under a memorandum of understanding.

Further, all signatory governments formally ratified the agreement through the enactment of identical state parliamentary legislation. The intention of the Murray-Darling Basin Act is as follows:

> . . . to promote and coordinate effective planning and management for the equitable, efficient and sustainable use of the water, land and other environmental resources of the Murray-Darling Basin.

Clauses 39 and 40 in part 5 of the bill clearly establish the commission's responsibilities under the act's intentions and, while acknowledging the commission's role, the agreement is only as good as the other governments that are party to it—as we witnessed with the issues over cap levels. The declining health of the river and its environment, the history of conflicting and competing interests, and the demands of economic sustainability compel immediate action at a state legislative level to prevent further or potential harm to the river and to firmly place South Australia at the forefront to press, by example, for a national agenda to deal with what is otherwise a looming ecological disaster.

We need to clean up our act if other states are to follow and, given our geographical position at the end of the river system, we need comprehensive state power to address the wellbeing of the river and its environs that drought years, such as the one we have just witnessed, make patently obvious. A measure of this priority is the fact that the bill seeks to amend some 20 existing acts to ensure its unity and effectiveness—a measure which has caused some concern in its scope. This indicates the importance of the issue and, rightly, the changes that will need to be implemented if this blueprint for national restoration is to bring together the many and diverse interested parties. Indeed, it was interesting to read the remark of the member for Unley in the other place on the duty of care provisions, where he urged the minister to override what he saw as the 'over-onerous and stupid provisions of the Health Act' where they stood in the way of improvements. It was also pleasing to read comments of the Executive Director of the Murray-Darling Basin, Mr Peter Hoey, in relation to the scope of the bill and its power of veto. He said:

> Yes, I think one of the great features of this bill is the amendment of 20 acts. 20 different pieces of natural resources legislation, each of which is generally focused across the state, are upgraded.

Another example of the need for the integration of powers under one authority or minister as last resort, in regard to achieving successful outcomes, can be seen in Professor Bursill's paper at the conference when he talked about the leadership, stewardship and management roles that governments can adopt. I assume by the plural that the stress was on all governments.

I will paraphrase what he had to say. He used the 1980s report by the then E&WS on catchment in the Mount Lofty Ranges. The report highlighted the pollution and poor land management processes which were commonplace at the time. A subsequent report commissioned by the government of the day consulted widely and duly made its report for resolving the mess. The practical resolution of the report saw little improvement, as the various competing interests prevailed over and above the concerns of the water resource, which supplies some 60 per cent of Adelaide's water in an average rainfall year. I assume that this is not now the case in the ranges catchment area, but it does highlight the possible outcome when competing interests and jurisdictions fight for outcomes without a central defining authority. This is not an outcome that the Murray and we should endure in South Australia, let alone endure in the national scene.

This theme of an integrated legislative approach is reflected in the thoughts of Dr Graham Harris in his speech to the 2002 national conference of the parliamentary public works and environment committees. Dr Harris used as his starting point the reflection by the federal Minister for Agriculture, Fisheries and Forestry, the Hon. Warren Truss, that solutions to the problems of water and land would mean that 'business as usual' would not be an option. Competitiveness and sustainability, he argued, would not be guaranteed by a piecemeal approach to environmental reform, but required a paradigm change in a move beyond 'our present fascination with market economics, resource depletion and unfettered capitalisation' to where we look 'at the landscape as an integrated unit and to balance the needs of the natural systems, the biodiversity, the productive landscapes and the wealth generation'.

This bill in its state jurisdiction is part of this paradigm shift in that it seeks to bring together in a non-piecemeal fashion those areas of state acts to facilitate and effect improvement. It is not legislative 'business as usual'. Environmental ethics are a major focus, as the objects and objectives of this bill recognise. Any greater economic benefits are guaranteed through this focus in the long term, as I discussed in the Statutes Amendment (Environment Protection) Bill 2002, which has been recognised in Dr Harris's paper. We have no choice but to be innovative, and this bill embraces the need for necessary change. It will bring about improvements in state environmental practice; by its existence, it will help add another plank to our national way of thinking; and it will be a driver of paradigm change. As Dr Harris noted:

> We will need research, education, community involvement, policy setting, etc., to be right.

In its own way, and without quoting Dr Harris too much out of context, this bill, as one aspect, either addresses or reinforces these criteria. We need to establish the vision, no matter how small the first window of opportunity. If we delude ourselves that this problem is not close to home or is in the distant future, I remind members that the current flow related salinity levels in the Murray will rise in the next 20 to 50 years to a level which will render Murray water undrinkable in drier years. Our reliance on this water at the moment is around 90 per cent. What of the effects of climate change on stream flow in the basin area?

I believe that the unwarranted concerns about the 'devil in the detail', which some members of the opposition felt lay awaiting us in this bill, have been laid to rest as a result of some comments and amendments in the other place. The minister has allayed fears about the extent of this bill's reach and his commitment to consultation regarding regulations—a process which was evident in public discussions with stakeholders such as local government, the community, members of parliament, and so on, who will have input into the regulatory framework, as will the Natural Resources Committee and existing committees where overlap occurs. Provision exists for local government to address a perceived wrong through the committee review function. The committee issues an annual report, which will look at the interaction between the River Murray Act, other acts and related operational acts. PARs are protected under the Development Act. In fact, this bill is flowing with accountability.

With regard to the integrity of this bill under the one minister, I want to look further at some of the practical issues that the Hon. Di Laidlaw has raised about past practices and what she sees as impractical and inappropriate measures under this bill. The honourable member thinks it is a bad approach for the Minister for the River Murray, rather than the minister for planning, to have the right of veto. As a former minister for planning, she feels that adequate powers exist under the Development Act and that the power of veto should reside with the minister for planning. It is a fact that the River Murray Bill will be a reality and that the office of the Minister for the River Murray must be the coordinating body.

Why would one want to place development issues affecting the Murray under the other department where it could well lack the focus and coordination of the appropriate ministry? Why fragment and dilute the focus of the Minister for the River Murray? The fragmentation of authority over the river has been, and still is, a problem which this bill needs to address. The honourable member claims that the Development Act has existing powers to handle coordination, and that the EPA and the Minister for the River Murray can fit into the consultation process under this act at the early stage of the councils' PARs, instead of at the end of the consultative process. Yet, in the honourable member's words, her experience as minister for planning indicates that existing consultative processes within unspecified government bodies did not take the planning phase seriously enough in opting for last-minute changes. Presumably, this has been the practice over some time and one would assume that there are practical reasons for this.

The potential for this to further exist, let alone its demonstrated reality given the existing powers, seems to me to be a sufficient and even necessary reason for the right of veto to exist under the relevant minister, the Minister for the River Murray. I think this is important. I think it is also important to point out that those conflicts between ministries where jurisdictions overlap can be referred to cabinet, so a veto by the Minister for the River Murray is not written in concrete.

The Hon. Carmel Zollo: There's nothing wrong with having a lead minister, is there?

The Hon. J. GAZZOLA: There is nothing wrong with it. The Hon. Di Laidlaw has also discussed what she sees as further related complications to PARs and the veto issue. The claim is that the opportunity to use regional planning bodies as potential coordinating bodies across relevant councils in regard to individual council PARs as already existing under the Development Act is a lost opportunity and would avoid duplication and, equally importantly for the honourable member, is at odds with the power of the ministerial veto to cut across the broad concept of community consensus.

In regard to the issue of the veto, we are talking about a proposal which could be clearly and strongly in breach of the aims and objectives of the bill, not each and every proposal. Whatever the paths of consensus—and the minister has been quite forthright and open on the need for community involvement—it is clear that there can be only one consensus on the outcomes consistent with the strategies of the River Murray Bill. While there will be consultation, there cannot be equal degrees of consensus where a veto is required. The honourable member has also queried the need for a standing committee. I point out that the member for Unley and the opposition are happy with the member for Mitchell's amendment for a natural resources committee and fully endorse it.

I also want to explore some of the ground covered by members of the opposition in this chamber during the second reading debate. The Hon. Caroline Schaefer's response addresses the previous government's commitment and adherence to the national agenda and its commitment to the recommendations of the select committee. I must say that I am somewhat bemused by the criticisms, when her answer begs the question of why the recommendations adopted by the Brindal select committee met with such difficulty. It should be pointed out that the Brindal select committee worked for eight years seemingly to achieve, in the Hon. Mrs Schaefer's own words, 'very little'. If the committee failed it is because it had the odds stacked against it from the start.

After unfairly bagging the government for supposed inaction while inherently acknowledging the real reason—the recalcitrance and indifference at times of the other states involved—the honourable member concludes, after a fly-by outline of what she acknowledges should be the responsibility of a single administrative body under the Murray-Darling Ministerial Council and commission, that the River Murray Bill is, 'in some ways, a logical progression from where the liberal government left the importance of the River Murray'. The government can take some appreciation from the honourable member's words; yes, we have moved on, and we need to keep moving on.

I think, however, that the honourable member could have been a tad more generous and accurate in her initial appraisal. Water release flows have been improved since this government took office and, yes, they are inadequate, as the minister, despite his best efforts, would acknowledge. Yes, the government is looking at water trading, but it is a complex issue across and between states and traders. I contend that the honourable member's frustrations with the lack of progress over the terrible state of the Murray are in the main due to the lack of a single national commitment over the issue of how to bring the various parties and governments to agreement. I agree that the River Murray Bill is an important part in this logical progression. What more effective driver is there to bring this issue to state and national attention in the absence of any other at this stage? We cannot afford to wait forever while the detractors tissy around the edges of environmental reform and with it the economic consequences.

While acknowledging that practical measures will be required in due course, there must be a legislative framework to act in a coordinated manner. The government is attempting at a state level to show the way in this regard. It does strike me as a policy vacuum for the Hon. Mrs Schaefer to chew over the recommendations of the past over which the previous government presided and which in the main have not been adequately embraced by other governments. Here we are, confronted by the biggest environmental disaster in federal and state history, and the strongest resolution that the lead speaker for the opposition can offer is to rehash issues, reiterate supposed and unsubstantiated concerns like local government issues that amendments in the other place have already addressed, raise potential conflicts of interest between irrigators and the objectives of the bill as seemingly intractable and insurmountable, when the bill clearly acknowledges the importance of the triple bottom line, and then say that a suggestion such as desalination or further exploration is the way out.

Engineering possibilities have their place but, following the protestations of all experts who endlessly and earnestly entreat us to act, we have the knowledge base; what we must demonstrate is the political will. No-one is pretending that a solution will be easy and painless, but we cannot afford to harp on the past or promote more pie in the sky solutions when it is clear that we are quickly going backwards. This issue calls out for action now, and the government has been saying this for a long time. It would be far more beneficial for members of the opposition to start lobbying their federal counterparts and not meekly fall into line with the federal government's cuts to the environmental budgets as outlined in the article in the *Australian* referred to by my colleague the Hon. Gail Gago in her address to the council.

I must say that, given the immediacy and importance of this issue, the meandering responses of some members of the opposition in the council strike me as being a tad surreal. There is no doubt about the future reality for Adelaide and South Australia as discussed in regard to possible summer water restrictions. The financial losses alone if water allocation to South Australia is further diminished are very worrying. It is estimated that the Riverland has $700 million of agriculture hanging off it, and this could be at some risk.

In a radio interview the member for Unley and a champion of the Murray talked about an unmitigated disaster and an economic loss in excess of $500 million. It seems that the fate of South Australia is becoming a 50-50 proposition, based on water allocation prediction trends. The commonwealth's response gives the issue an even more bizarre hue. The Prime Minister thinks the issue does not warrant a special premiers' conference or COAG meeting. It is a laughable tragedy that our own Prime Minister cannot pursue the saving of the Murray with the same vigour that drove his pursuit of the world stage. His own Treasurer—

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

The Hon. J. GAZZOLA: I've quoted Warren Truss. It is a pity that the Prime Minister does not listen to his appropriate minister. His own Treasurer, speaking on national radio, thinks that waving the waddy on compensation payments to states under the national competition policy will eventually safeguard South Australia's water supply and the well-being of the environment—a competition hammer as an environment policy; another example of political black mail, buck passing and bullying as policy. Of course, the states

have their part to play, but what an omission and what an abrogation of duty and responsibility! And why has the federal strategy not worked? According to the federal Treasurer—

The Hon. J.S.L. Dawkins: Have a look at the institution!

The Hon. J. GAZZOLA: Here comes the Treasurer; he's weighing into it. He said:

> We have made these payments to the states without demanding enough from them in return. One of the things we have to demand from them in return is fixing this water rights and water trading situation.

I do not doubt the federal government's willingness, but where is the federal policy, given the history of unresolved conflict over this issue? Where has the federal government been; where is its leadership? Would competitive bargaining per se lead to satisfactory outcomes for the river and its users? The Treasurer is even unsure about the powers the commonwealth government may or may not have, according to his interview. His best shot is to avoid the need for a cohesive blueprint and cooperative effort and to hold the states over a political and competitive barrel. Just the other day we heard the Treasurer, with distant election bells ringing in his ears and embarrassment clearly showing, echoing the refrain that a national (and I hope by this he means cooperative) effort is required. The River Murray Bill is necessary to provide further direction and sanity on this issue.

In conclusion, I would like to quote Mr Henry Jones on the subject of the river mouth. Mr Jones, a fisherman of the Murray mouth and the Coorong in a family industry spanning five generations, remembers when the estuary mouth was crystal blue with deep water and thriving life. Now it is like the Sahara with millions of tonnes of sand and no life. He said, in part:

> We are talking about Australia's greatest river. It is a [bloody] disgrace to this great nation. Can you believe that this clever country did not see this coming?

We need to be clever. I commend the bill to the council.

The Hon. A.L. EVANS: Much has already been said about the importance of the Murray River to our state. I do not feel the need to add to what has already been said. However, I do want to make some general comments about the River Murray. Before I do so, I would like to take this opportunity to thank Dr John Potter, D.Litt, MIMC, MPI,an agricultural scientist, who provided some very worthwhile historical and environmental information on the Murray River.

First, I think it is quite misleading and fanciful to think of the Murray as a permanent flowing river system. To speak of messing up the ecology of the river is to ignore the fact that the river, as we know it today, is not what it was prior to the weirs and locks going in. Prior to British occupation, the Murray River was without weirs. It was a series of stagnant pools that occasionally used to flood in seasons of high rainfall. I have also been advised that prior to these locks and weirs the Murray mouth was blocked by sandbars. It was not open; the Southern Ocean and the prevailing winds saw to that.

To ignore these facts is to create an artificial view of what the Murray was or might be. When the weirs and locks were installed, they changed the river's water storage capacity, creating water storage 'tanks'. As such, the river is a series of holding vessels. Accordingly, it is not, as many think, a flowing river. The damming of the river has changed the ecology of the river because the locks and weirs changed the natural ecology of the Murray River. Secondly, the water quality in the tanks is dependent on two things: the regularity of fresh water coming downstream and the control of pollutants being fed into the system. Obviously, freshwater flow is highly dependent on rainfall.

The two issues that I have just raised both point to water flow moving down the Murray River from the eastern states into South Australia as the key critical issue for the long-term sustainability of the river. In saying that I am also aware that the river has a number of pollutants (including domestic users and industry). However, I understand that water quality is only minimally impacted by these groups, although I am sure there are always areas for improvement. I am of the view that more should be done to find out how efficient upstream usage really is, because water usage upstream directly impacts on the level of water in our water storage tanks.

The bill appears to give the minister significant and wide-reaching powers. My concern is: what do indigenous communities, businesses and councils in regional South Australia and their respective representatives think of this, because those groups will be directly impacted by this change. I see that the bill will require the minister to report on the state of the river, and there are other reporting mechanisms in the bill which are expected and necessary.

In the past, I have made comments and suggestions concerning the management of the Murray River. The long-term health and viability of the river is very important to me. Family First has made the environment a priority; it is a priority policy area. This bill promises a lot. The government has said that the bill is the first cab off the rank and that other reforms will follow later this year. So, this bill sets the framework for the government's agenda for the Murray River. The government has said that the benefits from this new legislation will include improved biodiversity, tourism agricultural and recreational values. This is a huge declaration, and only time will tell whether it is achievable. I support the second reading of this bill.

The Hon. A.J. REDFORD: I support the second reading of this bill. This is an extensive bill which seeks to amend 22 pieces of legislation with a view to providing protection for and enhancement of the River Murray. It is extensive legislation—in some respects, it is extraordinary and unprecedented, particularly in relation to the extent of the power and discretion given to the minister and the bureaucracy. Clause 6 of the bill sets out in some detail the objects. In particular, paragraph (a) states that 'the objects of the act are to ensure that all reasonable and practical measures are taken to protect, restore and enhance the River Murray.' It acknowledges the critical and unique importance of the river to South Australia. The second object is 'to provide mechanisms to ensure that any development or activities that may affect the River Murray are undertaken in a way that provides the greatest benefit to, or protection of, the River Murray'—whatever that might mean. The contribution just made by the Hon. Andrew Evans puts that in proper context, particularly the historical nature of the river.

Clause 9 of the bill sets out the minister's powers, which are quite extensive and extraordinary. I highlight two of the functions of the minister. First, he is 'to prepare the implementation strategy'. In committee, we will see the important impact of that. I also note that, true to this government's form, under this act, the minister is 'to keep the state of the River Murray under review'. I am sure that when this bill is passed we will all sleep well knowing—we know what this government is like: it claims credit for the opening of a

packet of chips—that the minister will now keep the state of the River Murray under review. Just to put it beyond doubt and so that we are not in any way confused, the bill quite properly goes on to say that not only will the minister keep the state of the River Murray under review he will also keep the River Murray Bill under review. I have every confidence that the minister can keep these two very important things under review in his capacity as Minister for the River Murray.

There are other extensive powers. Clause 14 will cause some discussion because it gives extensive powers to authorised officers, not least of which is the power to require a person to answer questions under pain of a penalty for a failure on the part of an individual to answer. I will pay some attention to that requirement because I still believe in the right to silence and the presumption of innocence. Clause 17 provides the minister with extraordinary powers in terms of the undertaking of works. I am sure that we will explore that in some detail in committee.

I was very interested, sitting here on this side of the chamber, to listen to the contribution of the Hon. John Gazzola. It was well presented, it was clear, the language was simple, but there are a couple of minor things which I think I should take up on behalf of members of the opposition. The honourable member repeatedly chastised the Hon. Caroline Schaefer for not being accurate. He nearly bit his tongue off. During the course of this diatribe against my well-respected and extraordinarily hard-working colleague the Hon. Caroline Schaefer, he made some comment about her being a tad more accurate. I remind the honourable member that, when one makes comments about members of the other side being accurate, it is important—and I know it is very early in his parliamentary career—to be somewhat accurate in the statements that one makes oneself.

He mentioned something about the River Murray select committee, which was set up in another place after the last election. He said that this committee had been in existence for eight years. If I can just explain to the honourable member that the River Murray select committee was not in existence for eight years, and, indeed, it was not in existence for four years; it was in existence for approximately two and a half years. So, he is only out in the order of 300 or 400 per cent in terms of timing. But if I can just give him another little piece of information, and that is that under our system of parliament—and if he cares to look at standing orders he will see this—select committees never extend beyond the life of a parliament, and parliaments, last time I looked, have only four years. So, he was wrong on a number of counts in that respect, and I say that in the kindest possible way, because I know he can be prone to fall into error.

There is another example of that, where he chastised the government for not acting on the recommendations of the select committee. In fact, the select committee only reported not long before the election. So, to chastise the then government for not implementing the recommendation of the select committee in the short period that it had, I think, if I can use a term used by the honourable member, is just a tad unfair. He went on and did display some intellectual inconsistency. If I did not have a duty to members opposite, and all members of this place, I would probably let this one pass to the keeper. But he was severely critical of the federal government. He said that the federal government is not doing enough; he said that the federal government should do more. He said that the federal government, if I can paraphrase him, was being negligent.

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: No; he is allowed to give opinions at this stage. He then went on, when explaining what the federal government should do and said absolutely nothing, except one thing. I was waiting for what the Hon. John Gazzola was going to suggest, what gratuitous piece of advice he was going to give to the federal government on how it should deal with this matter, because I was going to write it down and I was going to ring up all my federal colleagues and say, 'Guys, we've overlooked something; the Hon. John Gazzola has stumbled on something.' So, I waited and waited. He made absolutely no suggestion of what the federal government should do, but then came up with this gem: he made the statement that the federal government should stop using competition payments.

You cannot have it both ways. You cannot say to the federal government that it should do something and then, the very minute it attempts to do something or send a message to the Labor governments—and in particular the Queensland Labor government—that they should stop abusing the River Murray system—

The Hon. J. Gazzola interjecting:

The Hon. A.J. REDFORD: Yes I did. The deputy leader of the Liberal Party—and no doubt at some stage, probably five or six years hence, he will embark upon a 10 year career as prime minister, given the current state of the federal opposition—criticised him for hinting, and he had to hint broadly, because the Queenslanders are not all that bright, that competition payments might well be withdrawn if some more positive steps are not taken by the state governments to implement a strategy. Other than that, he was a bit short on suggesting what the federal government should do, except that it ought to be put on the COAG agenda. That is all well and good, and I would not have any problem if the matter went on the COAG agenda, but it would be very interesting to see what specific items the honourable member is suggesting ought to go on the COAG agenda.

One of the issues that might well be put on the COAG agenda relates to an article in the paper the other day and my Liberal colleague, the member for Sturt, Christopher Pyne MP. Christopher Pyne is a hard working local member. For members who do not know, he represents a number of suburbs in the eastern metropolitan area of Adelaide. He made a comment to the effect that the federal parliament and the federal government ought to take this issue over. I will be the first to concede that I am not correct on every single issue on every single occasion, and this is one occasion where the member for Sturt is not correct. The issue of the River Murray is a very serious issue and it is an issue that involves all communities, and it is an issue that each and every one of us is responsible for dealing with and implementing.

A solution in relation to the River Murray will not be imposed upon us from on high. It will involve, as has been done in the past, a bipartisan effort. This did occur prior to the last election. There was bipartisan support for our program, with the odd exception, such as the Hon. John Gazzola's reinvention of history. However, on this matter there was bipartisanship in relation to the River Murray, and we are in a much better position to bring the communities along with us in terms of how we are to deal with the River Murray issue and how we are to ensure an appropriate use of that resource.

I know that there has been a tendency on the part of both former and current leaders to play the eastern state bogeyman. I would be the first to acknowledge that Queensland in particular and the states of Victoria and New South Wales

have a lot to do in relation to management and stewardship of the River Murray. But I think one thing we have to do in this state is ensure that we get our own house in order. There is absolutely no mileage to be gained from our pointing the finger at our eastern state colleagues only to have them say that we are not pulling our weight, that we are not doing the right thing in relation to the stewardship of the river.

So, in that sense I applaud what the former government has done and I also applaud the rhetoric to this point of the current government in relation to the River Murray. I do not believe, with the greatest of respect to the member for Sturt, that a centralised national bureaucracy will lead to better outcomes insofar as the River Murray is concerned. It is important that we bring together all the stakeholders and allow them to get on with the job.

I have not done this for a long time, but I have to acknowledge that the speech given by the Hon. Sandra Kanck was an excellent speech and, indeed, I think in most respects, apart from one issue, which she and I have parted company on for a number of years now, she was pretty spot on with her contribution. That issue, I might add, is that I am a pro population growth person, whereas she is not. I respect her viewpoint and I am sure that she respects mine. I think the problem we have in terms of managing our water resources in this state is that we do not manage them well enough. I have absolutely every confidence that we have sufficient water in this state, provided it is properly managed, to comfortably manage a proper population growth plan. Indeed, there is an extraordinary amount of water wasted in this state.

Apart from that, I agree with her comments about: why change all the existing planning laws or subsume them under this process? It seems to me that our planning laws have been developed over many, many years, through much debate in the community and the parliament, and that it would be inappropriate to throw out the baby with the bathwater. Certainly, from what I have seen, the government has not identified anywhere the problem that current planning laws create in terms of dealing with the River Murray. I would be interested to know what specific issues the government currently sees as problems that would be addressed by that particular measure.

The other issue relates to the parliamentary committee. I agree with the sentiments of the Hon. Sandra Kanck. Indeed, it seems to me that, at this early juncture at least, there is no real need for the establishment of a parliamentary committee, with the entitlements that flow with it. If we are at all serious and genuine about this issue, we will put the River Murray first, we will put the people of South Australia first, and we will think about the white cars, these additional allowances and the superannuation at some other time and in some other context.

If we are genuine about this, we should all be prepared to put our shoulder to the grindstone and say that we are prepared to work with and assist a committee—whether it be a select committee or a standing committee—without payment. I would hate to see this bill passed in its current form and the *Advertiser* headline be, 'Members of parliament help themselves to extra salaries and entitlements.' The River Murray and the message associated with the River Murray is far too important to be diverted or polluted—if I can use that term—by members of parliament seemingly—and I know they would not be—trying to get themselves a white car and/or an additional salary entitlement.

This is a time where we should put principle first, look at the issue and not be distracted by some of these other side issues and where we should not give the media and the public any opportunity to be sidetracked or to be made any more cynical than they are about our motives and what we want. This is an issue where we have to send a clear and simple message to the public of South Australia, that is, we are serious about the River Murray, we are concerned about our children in the community and we are so concerned about it we are prepared to put in and work hard for no extra remuneration for the benefit of all South Australians. With those few words, I commend the bill.

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

STATUTES AMENDMENT (GAS AND ELECTRICITY) BILL

Adjourned debate on second reading.

(Continued from 26 May. Page 2392.)

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I believe that everyone who wishes to speak to this bill has had the opportunity to do so. I thank honourable members for their indication of support for the bill. With the passage of this bill, the government will be delivering on its election commitment to consolidate economic regulation of the gas industry with the Essential Services Commission. Further, it formally establishes the regulatory framework to bring about full retail competition in gas. The Hon. Sandra Kanck sought confirmation that the Essential Services Commission would be appropriately resourced. It is the government's general policy that the Essential Services Commission's costs incurred in regulating an industry should be borne by that industry. The costs in regulating the gas industry will be met by gas industry participants through gas industry licence fees.

The bill provides that the Minister for Energy will fix licence fees by an amount that the minister considers to be a reasonable contribution towards the commission's administrative costs. Although gas regulatory responsibilities will be transferred formally to the Essential Services Commission upon proclamation of this bill, it is appropriate that the commission prepares for these forthcoming functions. In the interim period, the government has agreed to provide funding to the commission on the basis that any funds so provided will be reimbursed to the government once gas industry licensing and the level of fees have been determined.

The Hon. Rob Lucas raised a number of issues that I would like to address now. First, the honourable member sought a detailed explanation as to how new section 33 would be applied, and he identified some specific examples relating to Origin Energy. Origin Energy, as the incumbent gas retailer, will be subject to the new standing contract provisions contained in new section 34A that will apply for small consumers or customers of a prescribed class. Under this new section, if Origin Energy seeks to establish a new standing contract price other than that fixed by the minister before full retail competition commences, Origin Energy must publish its standing contract price and its justification three months in advance of when it seeks to have it applied. Under new section 34A, Origin Energy's price will apply unless the Essential Services Commission uses its discretion to make a price determination under new section 33(1)(a). It is possible that Origin Energy will consider a new standing contract

price without the Essential Services Commission formally exercising its price determination powers.

At this point, it may be beneficial to address some of the honourable member's hypothetical examples, and to summarise what powers the minister has in each hypothetical example. The honourable member's first example was: if Origin Energy was to submit a standing contract price that incorporated an increase with which the Essential Services Commission agreed, it would be anticipated that the Essential Services Commission would not exercise its power of price determination and would allow Origin Energy's price to stand. If the minister was not satisfied with Origin Energy's standing contract price, the minister could direct the Essential Services Commission to undertake an inquiry under part 7 of the Essential Services Commission Act. Amongst other things, the terms of reference of the inquiry could require the Essential Services Commission to consider whether a price determination should be made and, if so, to make it. This hypothetical example represents the situation that occurred in electricity. In that case, the minister required the Essential Services Commission to undertake an inquiry. The Essential Services Commission issued its final report and determination in October 2002.

The honourable member's second hypothetical example was: if Origin Energy was to submit a standing contract price that incorporated an increase with which the Essential Services Commission did not agree, it would be anticipated that the Essential Services Commission would exercise its power to issue a price determination under new section 33(1)(a). The honourable member's third hypothetical example was: if Origin Energy was to submit a standing contract price that incorporated an increase with which the Essential Services Commission did not agree and made a price determination issued under new section 33(1)(a) with which Origin Energy did not agree, Origin Energy may apply under the Essential Services Commissions Act 2002, part 6—'Reviews and appeals,' to the commission for it to review its price determination. In these circumstances the commission must give a copy of the application for review to the Treasurer as the minister responsible for the commission, and the Treasurer may make a submission to the commission. If Origin Energy is dissatisfied with the outcome of the review, it may appeal to the administrative and disciplinary division of the District Court against the determination.

The appeal processes and time frame processes are outlined in section 32 of the Essential Services Commission Act. The court may affirm the decision appealed against or remit the matter to ESCOSA for consideration or further consideration in accordance with any directions of the court. In all the examples I have mentioned, where the Essential Services Commission makes a price determination, it would need to take account of notices issued under new section 33(2). The minister can issue a notice under this section at any point up until a final price determination is made by the commission. It cannot be used retrospectively to alter a price determination made by the Essential Services Commission.

New section 33(2) was included to facilitate the implementation of full retail competition. It is anticipated that new section 33(2) will fall away on a date to be proclaimed. The key purpose of new section 33(2) is two fold: first, it is important that the costs of transition of full retail competition are fairly distributed amongst customers.

Secondly, it addresses specific issues relating to cost recovery by the distributor. The honourable member also sought information about price increases over the last 3 to 4 years. I have this information, and I seek leave to have the statistical table inserted in *Hansard*.

Leave granted.

Maximum Price Increases for the Sale of Gas (s33 of Gas Act 1997)

Year	Effective date	Maximum gas price increase %	Pricing regulator
2002-03	11 July 2002	6	Patrick Colon
2001-02	3 Aug 2001	3.30	Wayne Matthew
2000-01	1 Sep 2000	3.20	Wayne Matthew
1999-2000	8 Oct 1999	3	Rob Kerin
1998-99	31 Jul 1998	2	Rob Kerin

The Hon. P. HOLLOWAY: I trust that this information addresses the honourable member's issues regarding prices. The Hon. Rob Lucas also raised issues regarding the Retail Energy Market Company Limited (REMCo). REMCo is a not-for-profit company established by participants in the Western Australian and South Australian gas industry. REMCo will be responsible for administering the retail market rules and the retail market gas systems essential for the success of a retail gas market. It was the government's preference that the implementation of full retail competition solutions be industry led. It is understood that in September and October 2002, industry participants in both states met to further investigate options and the merits of working together for the implementation of full retail competition. It is understood that industry participants anticipated that a cost saving of around 30 per cent could be achieved with the establishment of a retail market administrator if Western Australia and South Australia worked together rather than working separately. It is understood that this saving arises from spreading the costs of establishing a retail market administrator over the combined market of 800 000 customers instead of South Australia's market of around 340 000 customers. The government gave in principle support to a joint Western Australian and South Australian approach on that basis.

REMCo was established in January 2003. I understand that two independent directors, Mr John Dawkins and Mr Mark Kelly, were appointed on 6 February 2003. Mr John Dawkins is chair of the REMCo board. Since its establishment REMCo has been working to an aggressive timetable to establish its retail market administrator capability. It has worked together with industry participants to develop retail market rules and it is now part way through a procurement process for retail gas market systems and services. Following the procurement process, there will be substantial work for all gas industry participants—the distributor, retailers, and REMCo—before full retail competition can be implemented. While a 'go live' date is not yet set, the government is keen for it to be as early as possible, and is currently working with industry to achieve a first half of 2004 'go live' date.

The final issue raised by the Hon. Rob Lucas was in relation to the technical regulator. I can advise that the position of technical regulator is a statutory appointment under the Electricity Act 1996 and the Gas Act 1997. Appointment to the position of technical regulator is not a Public Sector Management Act appointment. Following a cabinet decision, the last technical regulator's appointment was revoked by the governor in respect of the Gas Act and by the minister in respect of the Electricity Act. The previous technical regulator also held the Public Sector Management Act position of Executive Director of Energy SA under a five-year untenured contract.

In January 2003, pursuant to the Public Sector Management Act, the chief executive of PIRSA re-assigned the officer. He is currently developing proposals for enhancing interstate water trading, focussing on the Murray Darling Basin. He is using his previous expertise in gas regulation to assist in shaping a new trading market for water. The appointment of Mr Robert Faunt as technical regulator under the Gas Act and the Electricity Act was notified in the government *Gazette* on 3 April 2003. Mr Faunt has been employed since 1995 in the government's safety and technical regulatory area. Previously, he worked as an engineer in ETSA. I am pleased to hear the indications of support from members, and I will answer any further questions during the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.I. LUCAS: Members might recall that last evening, given the time available, I truncated my second reading contribution. There were three other issues that I was going to raise during the second reading debate so that the minister could take advice and bring back a reply. With your concurrence, Mr Chairman, and, I understand, the minister's, I will put those issues on the record now. As I understand it, there is an agreement not to proceed beyond clause 1 today. I thank the minister for the replies that he has provided to some of the questions I asked during the second reading debate. I will certainly have a close look at them in the *Hansard* record and will further consult and be pleased to pursue those issues if required during the committee stage.

There are three issues that I want to raise with the government, and the first relates to new section 33. This is an issue I explored at some length with government advisers, and one of them was kind enough to send me an email with a response to one of the questions. I will put the questions formally on the record and allow the minister to respond on the public record. New section 33(2) provides:

> Despite section 7 of the *Essential Services Commission Act 2002*, the Minister may, by notice published in the *Gazette*, direct the commission about—

and then it lists three factors or issues—

> (a) factors to be taken into account by the Commission in making a determination in addition to those that the Commission is required by the *Essential Services Commission Act 2002* to take into account. . .

In his second reading response, the minister made it quite clear, as follows:

> Nevertheless price determination powers remain with the Essential Services Commission.

So, the minister made it clear that there would not be political control of the price in this market after the transitional period. In other words, he made it quite clear that the decisions on price would be taken by the Essential Services Commission. I think it is fair to say that in some of the debate about this there has been some perception that the government was intending to have a final political say in the issue of price setting for the household consuming market. The question that I asked was whether the government had taken legal advice on new section 33(2)(a), which provides:

> Factors to be taken into account by the Commission in making a determination. . .

In other words, was it going to be possible, in a price determination, for the minister to direct the commission to take into account a factor such as there would not be a price increase greater than the consumer price index or some other price index that might relate to the gas industry, or any other form of words which in essence cap the price determination decision by the commissioner? I have referred to a couple of examples, that is, a factor being no greater than the consumer price index or some other price index. But there would be a number of other factors where it would be possible for the minister to indicate in his price determination that it will be conducted in a particular way so that eventually there would be clearly some form of price cap on the decision to be taken by the Essential Services Commissioner.

I will leave it for the minister at a later stage formally to put on the record the government's response, but certainly the response I have received at officer level was that, having taken crown advice, the view was that that was not possible. Let us be quite explicit about that: that is, that this particular clause could not be interpreted in a way which would allow the minister de facto to put a price cap on a determination by the Essential Services Commissioner. As I said, this is an important issue. It has been an issue of some discussion between the Liberal Party, gas industry representatives and me. I certainly want to have on the public record the government's response that its legal advice has made it quite clear that it is not possible for this to be interpreted in this particular way, and therefore the minister did not mislead the House of Assembly in his second reading explanation when he made it quite clear that price determination powers remain with the Essential Services Commission.

I understand other parts of that subclause were intended to allow, for example, the costs of the ombudsman scheme to be recovered—if I can put it that way—through a price determination and that there might be other examples that the government might be able to give as to the potential uses of this particular subclause, but certainly the ombudsman scheme was one example that had been given to me. Certainly, in relation to the ombudsman scheme, the opposition would understand that and have no concerns that, in essence, the reasonable costs of the ombudsman scheme would be able to flow on to a price determination decision by the commission. That is the first area.

The second area is a general one: what consultation with gas industry representatives was conducted by the government and its officers prior to the introduction of the legislation; have the major industry players signed off and agreed on the bill currently before the parliament; specifically, was any submission made by any gas company or industry player in relation to this price regulation clause; and, in particular, were any concerns expressed about the potential operation of this price regulation clause? The third area is in relation to the transitional powers or process at the back of the bill. Section 64 is a temporary price fixing provision. I understand that the minister obviously would need to speak to the minister in charge of the bill, but what would be the govern-

ment's view—and I indicate at this stage that the opposition has not decided to move any amendment at all—and position should an amendment to a sunset provision be placed on the temporary price fixing provisions under schedule 2?

I note that under section 7, schedule 2, the Governor may by proclamation fix a day on which this schedule expires. I note from advice from the officers—and the minister again has repeated it—that it is the current expectation and view that the industry will go live (to use the phrase) as soon as possible. I think the minister said either no later than or sometime in the early part of 2004. If an amendment were to be passed successfully by the parliament to put that provision at July 2004, what would be the government's position? I would assume that the government's first position would be: 'Well, just in case we might need this provision to go a little longer'—for example, if a provision had been successfully moved—'there is always the capacity'—as has occurred in other pieces of legislation—'for the government to come back and extend temporary price fixing powers for another period of six months or whatever it might be.' I am sure the parliament in those circumstances (as has been demonstrated not only by this government but by the former government as well) and on issues such as that is prepared to respond sensibly and expeditiously.

The concern I would have at the moment is that the minister has indicated that price determination powers will remain with the Essential Services Commission, and clearly the temporary price fixing provision makes it quite clear that the minister will fix a maximum price for the sale and supply of gas to prescribed customers. It is clear that during this temporary period the minister and the government retain political control over gas prices contrary to the undertaking given by the minister in his second reading explanation that the price determination powers would remain with the Essential Services Commission. As I said, the opposition can understand why in a transitional arrangement that might need to occur, but clearly from the way in which it is currently structured, given it is a proclamation by the Governor, that temporary price fixing provision certainly could continue for two or three years should the government so determine. That is, those temporary price fixing provisions would just be continued with the ministerial or political control over gas prices.

As I said, that would be contrary to the minister's second reading explanation and would then be tantamount to leaving the minister in the unfortunate position of having misled the parliament on the issue of the price regulation powers—a position, I am sure, in which he would not feel comfortable.

The last issue raised relates to the licence fees. On my previous understanding of the Essential Services Commission or the Independent Regulator, essentially the costs of running the former Independent Regulator and the Essential Services Commission have been recouped by very significant licence fees on the electricity industry. With the advent of monitoring functions for the Ports Corporation, and in particular the railway, the Essential Services Commission has sought to recoup some of the costs of the role that it is required to undertake in relation to some aspects of the monitoring of the railway sector for which the Essential Services Commissioner has been given the responsibility.

Of course, that is a relatively small part of the overall cost base of the Essential Services Commission. With the bringing together of the gas industry and the electricity industry, as I said, the essential costs of the commission have been recouped from the electricity industry and therefore the fixed costs and overheads so far have been basically met by the electricity industry. The minister in his reply has indicated that the gas industry will be charged for the costs of the regulation oversight and now the gas industry by the Essential Services Commission.

Logically, that would mean, therefore, gas industry licence fees, in essence, would need to recoup some of the existing cost base of the Essential Services Commission. Logically, as some in the electricity industry put to me, the licence fees for the electricity industry would be reduced by whatever proportion of the total cost base the gas industry now picks up, given that the gas industry regulation oversight will be a significant cost component of the work of the Essential Services Commission.

I am sure the Essential Services Commissioner, with the greatest respect to the commissioner, will be keen to hold onto his existing licence fees. I suspect his view will be that he does not get enough money to run the commission. He then will seek to recoup as much as he can from the gas industry and, potentially, that will lead to a revenue increase for the commission to undertake a range of other functions. I have not received formal responses from the electricity industry—my discussions are largely on an informal basis, because I am no longer the shadow minister responsible—but certainly some within the electricity sector have raised this issue as to what will be the flow-on impact to the existing licence fee base for the electricity industry, given that this has occurred. Certainly, on the surface there is a rational argument to indicate that, if the gas sector picks up a share of the fixed cost overheads of the Essential Services Commission, some of the licence fee costs for the electricity industry potentially could be reduced.

I understand that the minister will need to get advice from the Essential Services Commissioner in respect of his budget. He has very strong views in this particular area, but I would seek a response from the minister on this issue so that we can further explore it, should we need to do so, during the committee stage of the debate.

The Hon. P. HOLLOWAY: I thank the leader for his comments. I will seek responses to bring back to parliament when we next debate the bill.

Progress reported; committee to sit again.

RIVER MURRAY BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2408.)

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank all members for their contributions. Many of the matters raised, no doubt, will be the subject of debate when we reach the relevant clauses during the committee stage. However, I will address some of the main concerns raised by members. In relation to the River Murray Bill as a regulatory instrument, concerns have been expressed that the bill contains strong regulatory provisions but it does not contain anything that would help the community to do its best for the river. In particular, it has been suggested that the bill does not:

- Define what it means to restore and enhance the river;
- Set out how a river user would go about restoring and enhancing the river through individual or group activity;
- Provide real ways in which river users can contribute to the achievement of the objectives;

- Provide how the objects in clause 6(1)(b) will be achieved. Clause 6(1)(b) provides that it is an object of the bill 'to ensure that any development or activities that affect the River Murray are undertaken in a way that provides the greatest benefit to, or protection of, the River Murray while at the same time providing for the economic, social and physical wellbeing of the community'.
- Contain provisions for incentives and compensation.

The government has welcomed the high level of community support for protecting the river. We also acknowledge the enormous gains in water use efficiency made by South Australian irrigators in the past 10 years, in particular. These gains undoubtedly make South Australian irrigators the most efficient in the Murray-Darling Basin. These efficiency gains are reflected in the fact that the economic value derived from water in primary production in South Australia is the highest in the country.

The government supports the community, including the irrigating community, in doing their best for the river in many ways. We fund and encourage the protection of the River Murray through numerous means, including participation in the Murray-Darling Basin Commission, the River Murray Catchment Board and numerous other bodies active in the area. For the most part, we do not need legislation for the vast majority of programs run by, or participated in by, the government to assist the community to achieve its aspirations for the environment. Government programs and support for individuals who want to do the right thing are only part of the picture. Legislation is needed where a government wishes to introduce to the equation some real obligations or to alter existing statutory requirements.

In the case of the River Murray Bill, the necessary statutory elements are the introduction of duty of care and changes in the way in which statutory plans and other statutory licences, such as water licences, will be assessed and approved in future. Having set out the regulatory means by which the government will be empowered to achieve a better future for the river, the bill is careful to ensure that there are clear guidelines on how these controls will be administered.

The objects of the bill include the promotion of the principles of ecologically sustainable development and recognition of the ability of the community to make a contribution to the principles of ESD. The objectives of the bill set out, in part at least, what it means to restore and enhance the river, as follows:

- preventing extinction of species;
- maintaining key habitat features;
- protecting wetlands;
- removing barriers to migration of native species;
- improving water quality;
- minimising salinity, nutrient and other pollutant levels; and
- taking into account the interests of the community.

Both the objects and objectives guide the way in which the regulatory aspects of the bill must be applied.

The minister's functions include consultation with the community over desired outcomes for the river. The purpose of this is to recognise and build on the wealth of goodwill, expertise and commitment amongst the community in order to determine what can be achieved and how. The functions of the minister also include instituting or promoting programs which protect, maintain or improve the river. Again, this is not a regulatory function. It is not a provision that allows the minister to force people to maintain the river. Those regulatory controls are found elsewhere. This provision provides that it is the duty of the minister to undertake or participate in programs, such as those mentioned above.

Land management agreements are a prime example of the inclusion of incentives in the bill. Landowners may enter into agreements with the minister, entirely voluntarily, that set out how they will manage their land for the health of the river. Incentives for entering such agreements may include remission of various state and local government rates, taxes or levies; the provision of expert assistance; or direct financial incentives.

In relation to conditions that may be imposed on licences that are referred to the Minister for the River Murray, licence conditions may include the development of, or participation in, environment improvement programs or schemes. Licence conditions may also provide that levies under the Water Resources Act will be remitted. The River Murray Bill expands the current ways and reasons for which levies under the Water Resources Act may be remitted. These may include where a person undertakes or participates in specified water management or drainage practices, including the use of certain infrastructure, plant or equipment. I expect that these are just the types of incentives for irrigation efficiency that you would be hoping to find in the bill.

Schemes to encourage participation in the water market:

The River Murray Bill will be the first legislation in Australia that allows the government to introduce the revolutionary yet voluntary tender scheme that can be used to encourage people to participate in the water market. The government believes that all these provisions will build on and support the undoubted willingness and ability of most South Australian water users to commit to a better future for the river and all of us who depend on it. It has been suggested that irrigation efficiency is an aspect missing from the bill. The recently released water allocation plan for the River Murray contains very clear targets for irrigation efficiency and sets out how these targets will be met.

Through various amendments to the Water Resources Act (see the schedule), the River Murray Bill supports the implementation of that plan and provides constructive ways for water users to improve their efficiency. It has also been suggested that the bill does not consider the livelihoods of those affected by it. I hope that parts of the bill I have just spoken about make it abundantly clear that the whole point of this legislation is to ensure that the river can last long enough and in good enough health to protect and enhance the livelihoods of those affected by it, but I will take a moment to emphasise that point.

The objects state that the aim of the bill is to 'sustain the physical, economic and social wellbeing of the people of the state' and 'to facilitate the economic development of the state'. Just to take one of the objectives, it emphasises the need to recognise the importance of the river to the economic, social and cultural prosperity of the communities along the length of the river and to the community generally. It also clearly states, just so there is no doubt about it, that all persons involved in the administration of the act must act consistently with, and seek to further, these objectives and objects. The minister's new powers are by no means unfettered. They are constrained by this very real obligation in accordance with the stated objects of the bill.

The minister's role in the planning system development consents and plan amendment reports:

Concerns have been expressed that the bill will detract from the planning and development system established by the

Development Act 1993. The government certainly does not intend to damage the existing system for the development planning assessment and approval. It is a system that has been steadily developed and improved upon by successive governments. The River Murray Bill continues that tradition. I understand that the minister in another place has written to the honourable member addressing in detail each of her concerns, so I will not repeat them in detail here. However, for the benefit of other members I will make the following observations.

The River Murray Bill uses the existing provisions of the Development Act and builds within its existing policy framework to ensure that plan amendment reports that may have a significant impact on the river either meet the requirements of the Minister for the River Murray or are resolved by cabinet as a matter of high level significance. This aspect of the bill is in keeping with the existing policy framework of the Development Act, which in a number of specific places allows matters to be resolved by cabinet or by a minister or body other than the planning minister. It does not provide the Minister for the River Murray any veto rights, effective or otherwise.

Adjudicating in respect of contentious PARs is a function that cabinet already undertakes when required. In fact, until 2000 all PARs were approved by the Governor rather than by the planning minister. Regarding individual development applications, the River Murray Bill uses the existing mechanism established by the Development Act for the referral of particular individual applications to an external body, in this case, the Minister for the River Murray, for direction over provisions to be imposed on the applications. This is not new. The existing regime has by no means prevented a desirable development from occurring.

It has ensured that the special considerations, including environmental concerns, are properly taken into account. It is one that has been supported by successive governments. The bill enhances the one stop shop for development applications. Under the regulations currently being prepared, the Minister for the River Murray will provide a single response to council on behalf of all environmental agencies except the EPA, which will remain an independent body, thus effectively enhancing the one stop shop within River Murray protection areas. The bill does not alter the current provisions in the Development Act that allow councils to pursue regional PARs.

The Murray and Mallee LGA, representing the councils adjoining the river, has already commissioned a study into relevant development plans with a view to improving the integration between those plans, the state water management policies and the state salinity policy. That work has further developed over recent months in discussions between the M&MLGA, Planning SA and the Department of Water, Land and Biodiversity Conservation (DWLBC) for progressing a PAR, either regional or ministerial, with the support of the relevant councils. The resultant PAR, whether done as a regional plan or planning minister's plan, will have the support of the regional councils and both Planning SA and the DWLBC.

Impact on development and industry generally:

It has been suggested that the bill would result in the demise of our dairy industry and would strongly affect our citrus, almond and wine grape growing industries. It is simply not the case that the bill could see the demise of the dairy industry but, yes, it will strongly affect all industries that rely on the river. It will help to ensure the future of those industries which rely, as do many others, on the long-term viability of the river and the availability of a secure supply of water of a reasonable quality.

Rehabilitation of the lower Murray irrigation areas:

The bill does not have any direct impact on the rehabilitation of the lower Murray irrigation areas. While not directly related to the bill, it is however a very topical matter which was raised by some members. One of the key issues raised by members has been the comparison of cost sharing arrangements between this and the previous restructuring of irrigation areas, most notably the areas managed by the Central Irrigation Trust. I am advised by the minister in another place that if you look at the same sorts of things that were funded by these private schemes, you will see that the cost sharing for the proposed scheme for the lower River Murray is 45:45:10; 45 per cent federal, 45 per cent state and 10 per cent irrigators. One main difference between the previous scheme and this one is that more on-farm private activity needs to be funded in the lower Murray scheme.

The natural resources select committee, number of members:

A number of comments have been made about the proposed natural resources committee. I anticipate that this will be discussed at length when we reach the relevant part of the bill, but I note now that the committee originally sought by the government and contained in the bill as it was tabled in another place was a River Murray committee. It was not remunerated; it was a compromise with a small number of members truly interested in the issues raised by the legislation. It was to take a direct interest in the river and the implementation of the new legislation and in particular it was to convene public hearings in the regions at least once per year to hear direct submissions from those living close to the river. The government accepted the amendments that produced the natural resources committee, because it seemed the best compromise from a number offered by various members. I look forward to the committee stage of this bill for further discussions of the detail of its operation.

Bill read a second time.

FREEDOM OF INFORMATION (MISCELLANEOUS) AMENDMENT BILL

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

(Continued from 12 May. Page 2266.)

The Hon. P. HOLLOWAY: I move:

That the Legislative Council do not insist on its amendments.

This bill was the subject of considerable discussion in this place. I understand that the respective shadow ministers have been having some discussions, and I think it is the view of most members of parliament of both chambers that the best way that we can resolve this matter is to put the bill before a conference of both houses. I indicate that the government will expedite this process to get this matter into a deadlock conference as soon as possible.

The Hon. R.D. LAWSON: The council should insist on its amendments. I agree with the proposition advanced by the minister that this matter should go to a deadlock conference as soon as possible. While indicating that the council should insist upon its amendments, I think it is appropriate that I put on the record a couple of important matters. The bill as originally introduced in another place by the government sought to restrict access to documents and information in a

number of significant ways. The bill passed through the other place without amendment and it restricted access by the following devices.

First, it restricted access by members of parliament by imposing a fee for documents where no fee previously existed. Secondly, under the existing law, where a person is dissatisfied with a determination denying access to a document, a citizen has the right of appeal on the merits to an independent tribunal, namely the District Court. Under this bill, Labor restricted that right to questions of law only.

Thirdly, under the existing law a citizen is entitled, in certain circumstances, to obtain access to documents relating to estimates committees. The government bill removes that right. Fourthly, under the existing law documents containing personal information are closed to freedom of information for 30 years unless exempted by regulation. The government bill extended that period of closure by half a century to 80 years. Fifthly, under the current law documents containing advice to a minister or a department can be accessed subject to a number of conditions. The government bill changes the conditions under the guise of encouraging 'free and frank advice'.

The bill is in direct contradiction of Labor's mantra of greater openness and accountability of government. Moreover, the compact for good government between Labor and the member for Hammond contains the following words under the heading 'Promoting open and accountable government':

> The government [undertakes] to, within the next sitting of parliament. . .
>
> 1.2 Rebuild FOI legislation to give full and proper access to government documents by:
>
> (c) . . . Removing obstructions such as excessive costs claims. . .
>
> (e) Adhere to the spirit of FOI legislation and its underlying principles. . .

The bill passed in another place was in direct contradiction of that compact. In fact, the government's claim that it was honouring its commitment to the member for Hammond is absurd. When the bill came to the Legislative Council it was amended in a number of significant respects. Specifically, the amendments removed the new fee to be charged to members of parliament; they maintained full rights of appeal against adverse decisions; they introduced a restriction on the power of the court to award costs against citizens who unsuccessfully appeal against an order (and whose appeal is not unreasonable, frivolous or vexatious); and they retained (rather than expanded) the current exemptions relating to access to personal information after 30 years and to estimates documents and other advice.

Each of those restrictive elements of the government bill was removed. In addition, the following amendments were made in this council. First, the objects clause (section 3 of the act) proposed in the government bill was modified in a small but nonetheless important respect. These amendments do not erode or water down what the government sought to achieve in its amendments to the objects clause. It has been said in another place that some of the wording of the proposed new clause inserted in this place was derived from a New Zealand law which has some differing elements from our own, but that fact does not destroy the efficacy of those objects or their relevance to our act.

The Legislative Council did not support the proposal to insert in section 4 of the act the words:

> This act does not apply to documents or information held by an officer of an agency otherwise than in the person's capacity as such an officer.

In supporting the inclusion of those words, the Minister for Agriculture in this place said that their purpose was to 'clarify' that personal documents are not subject to FOI. The minister said (*Hansard*, 19 November 2002, page 1390):

> . . . it could be that [if] my gas bill is sent in [to the ministerial office]. . . it could get mixed up in a government matter. . .

This is hardly a compelling example, even if it is only hypothetical. Opposition members sought actual examples of an officer's personal documents being caught by FOI. To date, no examples have been produced by the government, nor has any information being given about the source of this proposal. For example, was it a recommendation of the Ombudsman or some other authority? The council should remain sceptical that this amendment was not merely to clarify an existing law but perhaps was an attempt to exclude some documents which are presently subject to FOI.

On the subject of legal costs, in the council it was successfully moved that the costs provisions in the FOI act be made more available for citizens who challenge FOI decisions by exercising their right to appeal to a court. The amendment inserted the following:

> . . . the court must not make an order requiring a party to pay any costs of an agency unless the court is satisfied that the party acted unreasonably, frivolously or vexatiously in the bringing or conduct of the proceedings.

This wording is modelled on the Workers Rehabilitation and Compensation Act. It is aimed to protect a citizen from the threat of having to pay the government crippling legal costs if an appeal is not successful. It removes one significant barrier to access. If the government were true to its rhetoric on greater access, it would have supported this amendment.

Another amendment, which was (I thought) agreed to by the government, made some information obtained by the Essential Services Commission (and which is of interest to direct commercial competitors) non-FOIable. I remind the committee that most of the amendments were supported by all non-Labor members in this place. The amendments which were made here are designed to ensure that the government honours its commitment to the compact for good government as well as its self-proclaimed commitment to openness and accountability.

There has been some suggestion that the government will withdraw this bill unless the council agrees to abandon its amendments. If that is true, that would be a deplorable attitude. If the government were to withdraw the bill, its claim to be in favour of a superior access to information and greater accountability would be exposed as a sham. Accordingly, I will be supporting the proposition that this council should insist upon its amendments.

The Hon. IAN GILFILLAN: I indicate the Democrats' opposition to the motion. I believe that this council should insist on its amendments, and in that respect I agree with the substance of what the Hon. Robert Lawson has just contributed to the debate. I believe it would be churlish if the government were to spit the FOI dummy just because it found that there were amendments which, for the ad hoc reason of being in government today, may cause it some discomfort. But I respect and admire the attitude of the opposition in this, because, although it may be difficult to see just how far down the track, I am sure they anticipate being in government at sometime in the future, and they are prepared to make this rod—if indeed it is a rod—for their own back in due course. What it really does signal is that those of us who have supported the amendments are genuine—

Members interjecting:

The ACTING CHAIRMAN (Hon. A.J. Redford): Order!

The Hon. IAN GILFILLAN: Thank you, Acting Chair, for protecting me from the vicious response from the members of the government, front and back bench. However, reverting to the issue of freedom of information, it is a major reform of the parliament, the government and the public sector at large in this state, and it is a pity if it has been, at least in part, thwarted because the government is not prepared to accept substantial amendments to the current legislation, and that is the reason why the Democrats energetically hold to supporting the amendments which we moved in this chamber, and we therefore are voting against the motion of the Leader of the Government in the council.

The Hon. P. HOLLOWAY: I did not speak in great detail to the amendments before us, because they had been covered in some considerable detail in the previous debate, but I will just make a few comments about this. When the honourable member talks about the government feeling discomfort, let me say that freedom of information law should be about making better government. It should be about making that information that is paid for by taxpayers available to taxpayers where it is clearly in the public interest, and this government has absolutely no problem whatsoever with that particular proposition.

But what does concern the government is the potential misuse of a bill such as this to completely gum up the procedures of government. That can happen. There does need to be a balance to apply with freedom of information laws. Information from those sorts of reports held by government that ought to be out there should get out there, but, at the same time, these laws should not allow frivolous or vexatious use of the procedure to not only gum up government but also considerably add to the cost of government. That is why, with this sort of legislation, a balance is needed, and I just trust that the conference that I expect will be set up shortly will be able to achieve the appropriate balance.

Motion negatived.

STATUTES AMENDMENT (HONESTY AND ACCOUNTABILITY IN GOVERNMENT) BILL

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

(Continued from 13 May. Page 2286.)

Amendment No. 1:

The Hon. P. HOLLOWAY: I move:

That the Legislative Council do not insist on its amendment No. 1.

A considerable number of amendments to this bill were moved when it went to the other house. Most of those have been accepted by the government. There were two outstanding amendments on which there was some disagreement. Following discussions with the relevant shadow ministers, I think we have been able to come to a compromise solution, which will enable this bill to pass. The government will accept the second amendment to be considered, that is, amendment No. 9; but the opposition will not insist on its amendment to amendment No. 1. We believe that that is a reasonable compromise that will enable this important piece of legislation to pass.

The Hon. R.D. LAWSON: I indicate agreement with the propositions advanced by the minister, namely, that the two remaining amendments made by the Legislative Council, which were not agreed to by the House of Assembly, should be treated differently and that, as a compromise and a sensible and reasonable compromise to resolve the dispute between the houses, the amendment made, now described as amendment No. 1, should not be insisted upon; but that the second amendment, now designated amendment No. 9, should be insisted upon.

The effect of them, very briefly, is that amendment No. 1 would have amended the definition of contract work to include work performed not only by a contractor but also by employees. That particular definition has application in division 8 of the Public Sector Management Act, and it requires persons who are performing contract work to act at all times honestly in the performance of that work, whether inside or outside the state, and also to take certain steps in relation to conflicts of interest. In agreeing not to insist upon its amendment in relation to that, we were comforted by the fact that, for a person to commit an offence, certainly against the honesty provisions, obviously it would be necessary for the prosecution to prove dishonest intent, but, in relation to acting where a conflict of interest exists, the existing provision does have the safeguard that it does not apply to a conflict of interest where the person remains unaware of the conflict or potential conflict.

So, notwithstanding our reservations about this provision, we believe that, by extending that to persons other than contractors and including their employees and subcontractors and the like, that would not be an unreasonable burden. Whilst I am on my feet, I might mention the opposition's position in relation to amendment No. 9—and I know that we are not strictly speaking on that at the moment. That amendment removes an offensive provision in the act which would have permitted a minister, by mere ministerial fiat, to exempt certain corporate agency members from obligations to act honestly and also to act in respect of conflicts of interest. We are grateful to the government for its agreement not to insist upon that ill-considered proposal.

The Hon. IAN GILFILLAN: I indicate that the Democrats are pleased with the arrangement that has been reached. It reflects the way we voted in the earlier debate. So, we have no argument with the motion proposed by the leader of the government and the foreshadowed motion for the second amendment. I do not intend to speak again. By indicating to the chair how we will be voting, I assume that that will clarify the issue.

Motion negatived.

Amendment No. 9:

The Hon. R.D. LAWSON: I move:

That the Legislative Council insist upon its amendment No. 9.

The Hon. P. HOLLOWAY: As I indicated earlier, we will not be insisting on this one. I note that, under the provisions of the act, the Governor may, by regulation, exempt a person or class of persons from the application of this part of the act, anyway. So, in a sense, the intent of the government's original provision can be achieved, but it has to be done in a more formal way through regulation. For that reason, we will not be insisting upon the amendment.

The Hon. R.D. LAWSON: Apropos the comment just made by the minister, what the opposition found offensive in the original condition was that there was no parliamentary scrutiny of the exemption proposed to be granted on the government's original bill. True it is that there is a power of exemption which will still be contained in this bill. However, it is a power that can be exercised only by regulation and, of

course, all regulations are subject to parliamentary scrutiny and to disallowance by either house.

Motion carried.

CONSTITUTION (GENDER NEUTRAL LANGUAGE) AMENDMENT BILL

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

(Continued from 15 May. Page 2355.)

The Hon. P. HOLLOWAY: When we last considered this matter, the committee will recall that I had moved that the amendments moved by the House of Assembly be agreed to. There was some debate on the matter of whether there should be a quorum when casual vacancies occur for this chamber. There has obviously been a lot of debate in both this council and the other place as to what should be the provision—if there should a provision at all—in relation to a quorum for a joint sitting. I understand that, since we last discussed the matter, there has been considerable agreement. I trust that those amendments moved by the House of Assembly will be accepted by this council.

Amendment No. 1:

Amendment carried.

Amendment No. 2:

The Hon. J.F. STEFANI: I move:

In lieu of amendment No. 2 insert:

Section 13(4)

After paragraph (f) insert:

(fa) there is no requirement for all members of both houses of parliament to be present at a meeting of the assembly, but at least 10 members of the Legislative Council must be present; and

Section 13(4)(g)

After 'members' insert:

present at a meeting

Section 13(4)(h)

After 'member' insert:

present at a meeting

In speaking to the amendment, I wish to put the position that prompted me to formulate this amendment and present it to this council for consideration. Essentially, the legislation as it stands now provides for no specific number of members to be present in a meeting of the assembly of both houses in this chamber to elect a replacement for a Legislative Councillor. If we take the position that three members could be present and could fulfil that function, that would bring into disrepute the process of the replacement of a casual vacancy in this chamber. It was with this in mind that I proceeded to formulate and move this amendment.

It essentially gives some credibility to the process of the replacement of a member of this chamber caused by a casual vacancy. It also provides that a minimum number of legislative councillors be present during an assembly of members of the council for the purpose of replacing a member and filling a casual vacancy caused by the resignation or retirement of a member of this chamber. I feel fairly strongly that members of this chamber should take the process seriously—and I know my colleagues do. In this format, it is important that a majority of members of this chamber are present during such a procedure.

The Hon. P. HOLLOWAY: The government does not support the Hon. Julian Stefani's amendment. I think all of us would be concerned if we had a sitting for a casual vacancy and it was not well attended, because it would reflect badly on this council. However, that has not occurred in the past, even when I believe it was the understanding of every member of both houses that there was no quorum requirement. In spite of that, on every occasion—certainly in modern history when there has been a casual vacancy—the vast majority of the 69 members of both houses of parliament have attended out of respect to this institution. I would certainly expect, and the government would certainly expect, that to continue.

I remind members that the reason this matter came to notice in the first place was the Hon. Diana Laidlaw's notification of her decision to retire, and it was at such a time that a joint sitting would need to occur before this council was to sit again. That happened to be a week when the House of Assembly was not scheduled to sit, so there was the problem where members of the other place who would not be in the vicinity of the parliament might have made other arrangements. It was exactly for that reason that the question of what is a quorum for a joint sitting came under notice. Nevertheless, in spite of the fact that the house will not be sitting, I would still expect that when the assembly occurs there will be a healthy attendance of members from both sides of the other place, notwithstanding that the house is not due to sit.

I do not think there is any doubt that we would not get the vast majority of members from both houses of parliament every time we appoint a casual vacancy to this council. In fact, I believe that in some ways the Hon. Julian Stefani's amendment—by putting a low quorum such as 10 and just for one house—is more likely to devalue the joint sitting than if we have what you might term the minimalist position that was ultimately the position of the House of Assembly, that is, no requirement for a quorum. However we would expect that everyone would attend.

The bill as presented to the council reflects concerns about the possibility that one or other of the major parties, or even both the major parties acting together, could abuse the quorum provision by boycotting a section 13 assembly, thereby preventing the selection of a person to fill a casual vacancy. However, the government would certainly not be a party to such a move, and I would sincerely hope and expect that neither would the opposition. It is difficult to conceive of a situation where it would be in the interests of either of the major parties, or even the minor parties, to do so. The electorate would simply not tolerate it. I think those of us who are old enough to remember Albert Field in 1974 in the Senate would hope that such a situation would never again arise in Australian politics. However, the government accepts that the inclusion of a quorum raises the possibility that this could occur, because I think once we start talking about quorums it starts to suggest that it is something other than a formal sitting of members to reflect the wishes of the electorate, as indicated in the constitution of this state, to fill a casual vacancy.

It is for those reasons that the government opposes the Hon Julian Stefani's amendment. I understand why he has moved it, and I accept that one can put a case. But, on balance, the government believes that we should accept the position as it was put by the House of Assembly and in, ultimately, the amended form the bill came to us. We believe that that most closely reflects the status quo. With that arrangement we will be more likely to retain the dignity and repute of joint sittings into the future when we fill a casual vacancy in this chamber.

The Hon. IAN GILFILLAN: I would like to indicate Democrat support for the amendment. We believe that it

expresses quite an important and valuable principle, which is that this chamber is in control of its own destiny and there is no reason why we should not expect a specified number of our members to be present for the very important task of filling a casual vacancy. Members of the other place are asked as a matter of courtesy. They can come as spectators but they do not have a direct role in appointing a person to fill a vacancy in this place. That is our business and I think this amendment very neatly expresses that. I am sorry that it may not be successful at this stage, but I think it may well be something which could be revisited at another time. It ought not necessarily be the agent which would hold up legislation which would facilitate the casual vacancy procedure to fill the Hon. Diana Laidlaw's seat.

Members interjecting:

The Hon. IAN GILFILLAN: I am not sure of the implications; did you ask whether John Rau had—

The Hon. A.J. Redford interjecting:

The Hon. IAN GILFILLAN: I will not be diverted to comment on that. Maybe the honourable member, now that he is no longer in the important role of acting chair, could contribute to the debate himself. I do not intend to go any further. Just to repeat: congratulations to the Hon Julian Stefani for conceiving the amendment; I indicate Democrat support for it.

The Hon. R.D. LAWSON: I acknowledge the motivation of the Hon Julian Stefani in introducing this amendment. However, for a number of reasons that I will indicate in a moment, the Liberal opposition will not be supporting it and we will continue to support the amendment proposed by the Member for Enfield in another place. When I last spoke in relation to this matter, I commented on the fact that an opinion of the Solicitor General had created some doubt about the efficacy of an assembly of members proceeding without all members being present. I acknowledge that a leading authority on meetings in Australia, Joske's *Law and Procedure at Meetings in Australia and New Zealand*, ninth edition, 2001, contains the statement:

> Unless provision is made for a quorum, all members of a body must be present at a meeting otherwise its acts will not be valid.

That proposition from Joske is supported by three Australian decisions. I think that an examination of those decisions would suggest that the statement in Joske does not have as wide an application as might be first thought. The first of those cases is Foran v the Queen, a Victorian decision of 1890. It concerned the Public Service Board, a board which comprised three members. There was an inquiry at which only two members of the board were present and they produced a report which was signed not only by themselves but also by the third member who had been absent, I think on account of illness.

The issue was whether or not that report and the proceedings of the board were valid. The act said that the board was to consist of three members. Chief Justice Higinbotham said:

> . . . it could not be disputed that where a function of this kind was entrusted to a public board, consisting of three members, it was a function which ought to be performed by all the members of the board.

I think that is a proposition with which most of us would agree, but of course it was a function far removed from an assembly of members.

The next case referred to was Green v The Queen (decided in 1891 in Victoria) and a case that was very similar to Foran's case. This concerned the activities of the medical board which had to certify eligibility for police pensions. That board comprised three members, and the act said that the report of the board must be signed by the members of the medical board. On this occasion the report was not signed by all members and the court ruled that it was necessary for all members to sign. Justice Holroyd said:

> As a general rule power entrusted to a given number of individuals cannot be exercised by a less number.

The final case, which was decided in 1966 in Tasmania, was the Municipal Council of St Leonards v Williams. That case concerned the operations of the municipal commission under the Local Government Act. That commission comprised a chair (who had to be a barrister), a civil engineer, the treasurer's nominee, two members appointed by the municipal association, and, finally, the town and country planning commissioner. One of those members was absent from a proceeding of the commission and the question was whether or not the commission could proceed in the absence of a member. Chief Justice Sir Stanley Burberry said:

> . . . it was the plain purpose of parliament in setting up the commission in which the professional qualifications and practical experience are so nicely balanced that any decision of the commission should only be reached at a sitting at which all those nominated by the parliament for their particular qualifications and expertise were present and able to make their own contribution.

Once again that was a decision of a small body where parliament clearly intended that all members of the body would participate in the proceedings. Once again a far cry from an assembly of members.

In conclusion, I refer to a principle that was quoted by Shackleton in the *Law and Practice of Meetings*, an English publication, eighth edition, 1991. It contains a more general proposition in the following words:

> The acts of a corporation are those of the majority part of the corporators corporately assembled. . . in the case of special custom, the major part must be present at the meeting and of that major part, there must be a majority in favour.

That comes from a decision in England, the Mayor and the Merchants of Stopls v The Bank of England, decided in 1887. That general proposition is that the major part of the corporators of a corporation must be assembled. On that common law principle, if it were to be applied to an assembly of members, it would mean that at least one half of the members would have to be present.

However, as the Solicitor-General said, in his opinion, there is some doubt about the matter and that we ought to adopt a cautious approach. The opposition certainly agrees with that. The advantage of the Rau amendment is that it removes the doubts and it does so in a manner which confirms everyone's understanding of the existing practice; namely, that it is not necessary for all members of an assembly of members to be present for it to be valid and it does not impose any quorum. The amendment of the Hon. Julian Stefani would introduce an anomaly in that the constitution now regards the membership of the assembly of members as the presence of members from both houses as of equal importance and significance. To insert a new provision in the constitution and to change the existing practice by insisting that a certain number of members of the Legislative Council should be present would be a significant change.

The Hon. Ian Gilfillan said that this council is really in control of itself, but I remind members that an assembly of members under section 13 of the constitution is not a proceeding of this council. The constitution gives to that assembly, comprising members of both houses, the right to fill a casual vacancy. We certainly do not seek to change that.

The convention is, as I understand it, that the Premier usually nominates a person from whatever party, whether it is from the Premier's party or some other party, and the motion is seconded by the Leader of the Opposition. That is a convention which, speaking on behalf of the opposition, we would certainly like to see continued. This is not a proceeding which is solely the concern of the council, notwithstanding that the business of the assembly of members is to decide upon a person who will fill a casual vacancy in this place.

The government has indicated that it does not support the amendment of the Hon. Julian Stefani. The Liberal opposition is keen to proceed with this matter because of the impending and foreshadowed retirement of the Hon. Diana Laidlaw and, in those circumstances, whilst by no means wishing to denigrate the amendment, I think that the position adopted to date in the Rau amendment is the preferred position.

The Hon. J.F. STEFANI: I put on the record my appreciation for the support of the Australian Democrats. I know that one or two other members in the chamber would feel inclined to support the amendment, but obviously on the numbers the majority are clearly against the amendment, so I will not be seeking to divide.

Amendment negatived; motion carried.

Amendment No. 3:

The Hon. P. HOLLOWAY: I move:

That the House of Assembly's amendment be agreed to.

This amendment simply removes any doubt—should there be any—over the validity of past joint sittings to deal with casual vacancies in this chamber, including me.

The Hon. R.D. LAWSON: I indicate opposition support for this amendment because it is true, as I indicated in an earlier contribution, that a number of these assemblies of members have taken place when all members of both houses were not present and, in those circumstances, it is appropriate to put beyond doubt the validity of those appointments.

Motion carried.

CRIMINAL LAW (SENTENCING) (SERIOUS REPEAT OFFENDERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 May. Page 2334.)

The Hon. R.D. LAWSON: I indicate that the Liberal opposition will support the second reading of this bill. Contrary to the rhetoric of the government, this bill weakens the criminal law in a number of material respects. For years, the courts have had the power to order that an habitual criminal be detained in custody until further order. This bill will take away that power from the courts. The justification for the bill, and this particular element of it, is that the court in recent years has not exercised the power to order the detention until further order of an habitual criminal. We take the view that this is an important power which the court ought to have. The fact that it has not been exercised in recent years does not mean that it should be abolished entirely. We believe that circumstances may arise in the future, with particular offenders, where it is appropriate, in the interests of protecting the community, for such an order to be made. We deprecate the fact that this government is removing this important power from the court.

One only has to read the report in the *Advertiser* of 22 May in relation to a self-confessed murderer, Mark Erin Rust, who pleaded guilty in the Supreme Court to a number of charges, including the highly publicised murders of Megumi Suzuki and Maya Jakic. The crown is applying for an order for indeterminate detention of Mr Rust under section 23 of the Criminal Law (Sentencing) Act. This section provides that an offender who is incapable of controlling his or her instincts may be detained indefinitely by order of the Supreme Court. That is not a power that is exercised all that often. It is a power of indeterminate detention. It can be criticised on the grounds that the High Court has given in relation to certain other matters, but it is important that these reserved powers be retained. We deprecate the Rann government's decision to do away with this important power. However, we welcome the fact that some of the provisions relating to habitual criminals are being modernised. One of the significant modernisations of the concept is to list an appropriate array of offences, convictions for which can attract the exercise of the court's power.

We deprecate the abolition, which is effected by this bill, of the expression 'habitual criminal'. We believe that it is entirely appropriate to describe those offenders who have been convicted of a serious array of offences, on not one but at least three occasions, as 'habitual criminals', rather than the mealy-mouthed new terminology of 'serious repeat offender'. In respect of both these matters we will be seeking amendments, namely, to restore to the court the reserved power to order the indeterminate detention of a person who is declared by the court to be an habitual criminal or a serious repeat offender, and to amend the definition to maintain that terminology.

The current provisions, which are being amended in this bill, were enacted in 1988. However, they are of very much older origin. They exist in a number of jurisdictions in Australia. As the Attorney-General noted in his second reading explanation, indeterminate detention is a power that, according to the High Court, should be imposed only in exceptional circumstances. However, we believe that exceptional circumstances do exist from time to time and that the power ought be retained.

This government has sought to paint this bill as further evidence that it is tough on law and order. In fact, the government's only stance on law and order has been to seek to create a public perception of being tough. The reality is that this government, in a number of respects, is actually weakening this state's armoury in the fight against crime. In its first budget, this government actually cut local crime prevention programs by slashing $800 000 out of a $1.4 million budget. That cut was a severe blow to local crime prevention in this state. It showed that the government actually gives crime prevention a low priority. This government's top priority is political stunts and political publicity. Local crime prevention is not something that can be exploited in the media, so they cut it. One of the excuses offered by the government was that they had to give greater priority to appointing more staff to the office of the Director of Public Prosecutions. As the opposition has recently shown, far from the appointment of more prosecutors, there are fewer staff in the office of the Director of Public Prosecutions than when the new funds were first allocated.

Another indication of this government's approach to law and order is in the area of policing. Everyone knows that more police officers and a better resourced police force are essential requirements in the war against crime. However, this government will not appoint one additional police officer. Their claim is that they will recruit to meet attrition. That claim is not good enough. They are only treading water on police numbers while the tide of crime is rising.

At the other end of the justice spectrum, namely, correctional services, they are also failing. In January this year, the Commissioner of Police rightly pointed out that the rate of recidivism for people who have been imprisoned in South Australia is 46.3 per cent—the highest in Australia. What has this government done to address this appalling statistic? Has it boosted programs in prisons to reduce recidivism? On the contrary, this government has actually slashed programs in prisons. Operation Challenge was a boot camp style program for first offenders. It was an initiative of the Liberal government.

It was described in an annual report of the Department of Correctional Services in the following terms:

> Historically, concern has been expressed that first-time offenders entering the prison system learn, and are at risk from, habitual long-term offenders. Operation Challenge was developed by the department to address this concern. The program is administered from the Cadell Training Centre and is available to selected adult male prisoners. These prisoners live within a disciplined regime where they have minimal association with other prisoners and are required to abstain from substance abuse.
>
> They are required to undertake vocational training, the department's offender development programs, a physical fitness program and reparation to the community through community work. The program is incentive based and prisoners are provided with sound work ethics and learn new thinking skills. The entire program is based on a mutually supportive team environment. In addition to their prison activities, prisoners are required to undertake community service.

That is what the department said about Operation Challenge. What did this government do? In its first budget it axed this excellent program. Some ill informed people scoff at programs like Operation Challenge, because some people say they are soft on prisoners. However, this was not a soft on prisoners program. We in the Liberal Party supported the program not only because of the beneficial effects on individual participants—although that is very important—but, more important, also because Operation Challenge makes our community safer when prisoners are released into it.

The Hon. J.S.L. Dawkins: And it's highly regarded in the community.

The Hon. R.D. LAWSON: The Hon. John Dawkins rightly interjects that it is highly regarded in the community. He has a particular interest in the Riverland, and many prisoners who are participating in Operation Challenge have undertaken a great deal of community work in the general vicinity of Cadell. In addition to the closure of Operation Challenge, psychological services in our prisons were cut under this government. The very innovative association between the department and the University of South Australia in relation to criminology was cut, and the department is no longer maintaining that vitally important link. The therapeutic drug unit at Cadell was closed. So, this bill should be seen against the background of a government whose actions on law and order do not match its rhetoric.

One of the initiatives that is taken in this bill is to give the court the power to order a fixed term of imprisonment with an 80 per cent non-parole period. That is a sentence which is not one that is strictly speaking proportionate to the offence. We certainly agree with the principle that the court should have that additional power and that the sentences for habitual criminals should be toughened. It is true that in his second reading speech the Attorney-General reminded the parliament of the decision of the High Court in the case of Kable, where a law of the New South Wales parliament was passed for the indeterminate detention of a particular individual, and the High Court struck that down as unconstitutional, but there is no suggestion that the existing powers which are contained in the South Australian act are unconstitutional. We accept that the courts cannot impose preventive detention, namely, imprisoning offenders not for what they have done but for what it is suspected they might do in the future. What we do say, however, is that the court should retain the power to order preventive detention in the case of habitual criminals.

In another case, R v Chester decided 1988, the High Court stated:

> Common law does now sanction preventive detention. The fundamental principle of proportionality does not permit the increase of a sentence of imprisonment beyond what is proportional to the crime. . . [preventive] detention should be confined to very exceptional cases.

It is important to note that this statement refers to the common law, but what we are dealing with here is the statutory law of the state of South Australia. That law does allow preventive detention; it provides for it and we should continue it.

The Criminal Law Committee of the Law Society wrote expressing opposition to this bill. The committee argued that the requirement that the court fix a non-parole period for a habitual criminal at 80 per cent of the head sentence amounts to mandatory sentencing. We do not accept that that argument is valid. The court still maintains a discretion as to the fixing of the head sentence and, whilst that discretion is maintained, it cannot be said that the sentence is one that is imposed from outside the court by the parliament. It is true, of course, that a judge will have to fix a non-parole period of 80 per cent of the head sentence, but that judicial discretion as to the length of the sentence itself will be maintained. There is a similar provision in the Queensland legislation.

In conclusion, and in support of the second reading of this bill, I say that this is a fairly modest rewrite of the existing law. It does have the potential to increase sentences for some serious offenders, and we support that. The Office of Crime Statistics said that last year there were 34 cases in South Australia to which an act of this kind could have applied. However, we do deprecate the fact that the government has seen fit to remove from the courts an important power which they have long held and, as indicated, the opposition will be moving amendments to restore that power.

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

ADJOURNMENT

At 6.15 p.m. the council adjourned until Wednesday 28 May at 2.15 p.m.