LEGISLATIVE COUNCIL

Thursday 13 November 2003

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

STANDING ORDERS SUSPENSION

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

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

Motion carried.

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (NEW PENALTY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 November. Page 515.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise on behalf of Liberal members to support the second reading of the bill. The shadow minister (the member for Bright) placed the opposition's position on the record during the debate in another place. I will address some of the matters in relation to this issue raised by the member and some of the comments made by other speakers in the debate, as well as comments made in the council.

At the outset, I will make some general comments. The issue of bidding and rebidding is a perfect example of some of the dilemmas that confronted the South Australian community, more importantly, but also the government and the parliament at the introduction of the national electricity market. Clearly, with the new market, there were teething problems with some of the rules as operators sought to operate to their own advantage within the rules. Equally, during that period in 2001, we saw a coming together of a number of events that meant that the rational discussion of many issues was very difficult, and there was a lot of irrational debate about bidding and rebidding practices.

In the past few days, I have had the opportunity to revisit some of the statements made by politicians, members of the media and others during that period. In particular, it is interesting to look at comments made by former members of the opposition (now members of the government)—particularly the Premier, the Deputy Premier and the Minister for Energy—in terms of some of the statements and claims that they made about bidding and rebidding practices and to look at what, in essence, they have done (which is, frankly, very little) since they assumed government in March 2002.

This debate today is a useful opportunity to look at the background and the practical differences between the sometimes irrational claims that were made in 2001 at a time when, as I said, a new market was being established. We also had the controversial privatisation debate and, of course, a climate in which, prior to the state election, politicians and others wanted to make inflammatory claims for maximum publicity and public relations effect.

Of course, at that time, trying to manage the process with the independent national bodies was, as the former government indicated, a difficult task. The former government was roundly criticised not only in this area but also in many others. Bodies such as NECA and NEMMCO were assumed by opposing politicians in South Australia as being there at the behest of the government of the day and that, in the opposing politicians' viewpoint, it required only a click of the fingers for such independent bodies to respond to South Australia's bidding.

When you are in government, you know that that is not always the case, and I guess the perfect illustration of that is the debate that has ensued in relation to Riverlink and SNI, when again, incorrectly, the former opposition used to make statements that the former government had stopped Riverlink, for example, when it knew that that was not correct. The former government did not have any power to stop Riverlink. That was a decision to be taken by independent national bodies.

Of course, the former opposition made promises prior to the election that it would do certain things. We are now almost two years down the track, and those commitments that it made in relation to Riverlink and SNI, for example, have proven to be demonstrably wrong—further broken promises by this government in the area of electricity reform. I will not spend any more time on the SNI-Riverlink debate—that can be for another time—but I use it as an example to illustrate how it is very easy in opposition to make extravagant and outlandish claims about what should be done and what politicians would do if they were in government. In this whole area of electricity reform, the brutal reality has been that this government has done precious little in its period since March last year.

As was highlighted in the debate in another place, this is a relatively simple matter in terms of national electricity reform. Increasingly we are seeing legislation being rushed through urgently (contrary to the usual standing procedures and practices of consideration of legislation in the parliament) in November 2003—in the last two weeks of this part of the session. That is a fair indication that the new minister, in particular, as we have seen in the last couple of weeks, is struggling in terms of his government's electricity reform proposals.

Whilst a lot of people do not read the morning newspaper, they generally look at the cartoon—as I am sure you did this morning, Mr President. I am sure you would not admit to it, but you might even have had a slight smile on your face. That cartoon summarised this government's policy towards electricity: the Premier sitting behind a desk saying, 'The buck stops. . .,' and then pointing in another direction. On this occasion he was pointing at Lew Owens who is the current fall guy. On other occasions it is the former government, the industry or everyone other than the current government.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: Or Paul Keating, as the Hon. Ms Kanck highlighted in her contribution. Certainly, to be fair, most of the dilemmas we are confronting go back in part to the decision that was taken for a national electricity market. To be fair, it was pushed by Paul Keating and the federal Labor government—it was also supported by the federal Liberal Party at the time. It has subsequently been supported by Labor and Liberal administrations in this state. The Australian Democrats in South Australia, and possibly elsewhere, have consistently opposed the key elements of the national electricity market and national electricity reform. On that basis, one can argue that the Hon. Ms Kanck's position, on that issue at least, is relatively consistent. The government's position, of course, is not. The hypocrisy of the government's position has been highlighted by a number of

speakers, including the opposition, the Democrats and other speakers in both houses.

In looking at this bidding and rebidding issue, it did highlight the very worst excesses of public debate in terms of the national market and privatisation and the whole operation of the electricity industry, not only in South Australia but in Australia. As a background, the whole issue of bidding and rebidding was characterised by many as being almost—not putting words into any particular person's mouth—something which, in and of itself, was evil, wrong and improper. The reviews conducted by NECA, when this first became an issue around the early part of 2001, made it clear that bidding and rebidding were an essential and necessary part of the operation of the national electricity market.

I do not have the exact figure but I have a clear recollection from one of the earlier discussion papers that NECA actually highlighted the fact that either 30 or 50 per cent, or a very high percentage, of rebids were at the lower price. Certainly, the view of rebidding in the market at the time was that all of these rebids were being done by greedy generators. The characterisation was that 'greedy, privatised, multinational generators' were rebidding and cranking up the price on all occasions in order to screw the electricity market for additional dollars for their companies. I might stand corrected on the number—I have not been able to find it this morning—but a very significant percentage of the rebids, according to the analysis done in 2001, were rebids of prices downwards as opposed to upwards.

Why anyone would want to prohibit a downwards rebid is hard to comprehend. I believe that is a perfect example of some of the irrational debate that was going on in around 2001 regarding the whole issue of bidding and rebidding. That is not to say—I will highlight the actions the former government was taking at the time—that there were not a number of significant examples of inappropriate rebidding. That is, people operating in the rules of the market as they operated but in a way which meant they were seeking to jack up the prices to their own company's advantage and to the disadvantage of electricity consumers. However, what needs to be borne in mind is that a significant percentage of those rebids were to a lower price.

In the early part of 2001, when this first became an issue, with a fledgling market and with all that was operating, this was one of the problems which was identified through the operations of the summer of 2000-01. In the early part of 2001, the former government and its officers were involved in a series of discussions with other government officers and ministers and with the appropriate national authorities, NECA and to a lesser degree NEMMCO, about what could be done to amend bidding and rebidding practices. I am fortunate enough to have a copy of a leaked letter written by the former government to the managing director of NECA on 20 June 2001 as one example—

The Hon. P. Holloway: Did you sign it?

The Hon. R.I. LUCAS: Yes. It is, fortuitously, a leaked copy of a letter signed by me to the managing director of NECA, Mr Stephen Kelly. The letter states:

> I note that NECA is advanced in relation to its consideration of the rebidding issue. Whilst it is accepted that the ability for generators to rebid in certain circumstances is essential for the efficient and effective operation of the market, there is prima facie evidence that some rebidding is used as part of a strategy to drive up prices. It is this latter activity that needs to be addressed in the work being undertaken by NECA.
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> It is acknowledged that there is also a role for the ACCC in the area of rebidding. It is important that the ACCC review any existing conduct that could be considered anti-competitive and more actively apply the provisions of the TPA in respect of that conduct. The work outlined above—

There were other issues raised in that correspondence in relation to the value of lost load or what is known as VOLL. The letter continues:

> and any consequent Code changes would need to be finalised by 1 November 2001 to be effective for this coming summer, a timetable that South Australia asks that NECA commit to.

That is a fair summary of what was going on in the early part of 2001. There was much discussion going on between officers within the South Australian Treasury department and appropriate officers in other states and also with NECA highlighting these issues. In my discussions with NECA we raised this issue of rebidding and what needed to be done. Soon after that there were meetings of the Council of Australian Governments—the COAG meeting of 8 June. Soon after that there was a meeting of the national electricity ministers around late June or early July which discussed, at great length, the rebidding issue.

At that NEM forum—which I am reminded now was on 26 June, soon after that letter was written—from my recollection, there was a presentation by NECA at that meeting on the urgent work that we had been pushing them to do, to look at the whole issue of generator bidding and rebidding. I have a copy, and this is still on the NECA website, of the July 2001 report 'Generators bidding and rebidding strategies and their effect on prices'. My recollection is that we were briefed on that report at the NEM forum on 26 June 2001. Without going into all of the NECA report, which is still publicly available, I will summarise from page 1 of the report:

> Rebidding represents an essential flexibility to enable generators to respond to changes in physical and legitimate commercial circumstances. It is imperative for the effective operation of the market. Efficient prices represent crucial signals for much needed new investment and for demand-side responses. Artificially constraining prices properly reflect the underlying dynamics of the market will distort those crucial signals and jeopardise the new investment already committed or planned and future prospective investment in the market.

That NECA report of July 2001 highlighted some of the problems of the bidding and rebidding rules at the time, and the first stage of NECA's suggestions on what changes might be made to the rebidding rules. In hindsight, it is clear to see that the original proposals from NECA in July which talked about, for example, prohibiting rebidding within three hours of dispatch, with only very limited and closely defined exceptions connected to the physical operation of the plant. A number of the other aspects of their original proposals did not come to fruition.

What we saw, through that period of the second half of 2001, was NECA going through its process of consultation with the industry, and then having to work its process through with the ACCC. I do not have all the detail of those discussions with me at the moment; it would probably contain too much detail to go into anyway, in terms of this debate. However—if I can summarise it—there were a number of iterations among NECA, the ACCC, the electricity industry, governments, and government advisers, right across the board as the discussions ensued on what the appropriate form of change would be to tackle this issue of bidding and rebidding.

I am indebted to the hard work of my staff who have just given me, to place on the record, a quote from an issues paper

from NECA which I am assuming was from July 2001. It states:

> In two-thirds of the cases where rebidding led to significant variations between forecast and actual prices, actual prices were lower as a result. Comparing pre-dispatch forecasts based on initial bids with actual prices demonstrates that, in all regions, actual prices were lower directly as a result of rebidding: by almost 40 per cent ($47 compared to $77/MWh) in Queensland; 14 per cent ($82 compared to $96/MWh) in South Australia; 10 per cent ($40 compared to $45/MWh) in New South Wales; and 6 per cent ($55 compared to $59/MWh) in Victoria. The reductions over the critical three months of the summer were even greater: 55 per cent in Queensland, 46 per cent in South Australia, 29 per cent in New South Wales, and 42 per cent in Victoria.
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> The appendix contains a detailed analysis of bidding and rebidding and its effects.

I just place that on the record in relation to the point I was making earlier. A significant amount of rebidding practice in and around that time was actually rebidding at a lower price, leading to lower prices. As I said, just to repeat the point, much of the debate about bidding and rebidding at the time was characterising rebidding as being evil, multinational privatised generators ratcheting up the price on all occasions to screw the market and consumers. As I said, it may well be that, in some cases, there were examples of inappropriate behaviour, and that is what we were raising in our correspondence in July.

Certainly, the sensible policy response was not going to be to ban rebidding completely, as some were suggesting: it was to try to stamp out what was inappropriate rebidding that needed to be addressed by the government. All of the hard work, therefore, in relation to bidding and rebidding, was done and concluded, essentially, by the former government. So, when the new government assumed office in March 2002 most of the hard work in relation to that had been concluded. What remained was an issue that was first raised by me when I was minister some time around the middle or third quarter (I do not know the exact date) of 2001.

I can recall clearly that, in discussing this issue with the group of advisers from Treasury and the private sector, the view that the penalty that was possible in the event of inappropriate rebidding was not sufficient to discourage financially inappropriate rebidding practices. It was at that time that the South Australian team agreed that we should be pushing other government's to support a South Australian initiative to impose a maximum penalty of $1 million per event. Those discussions commenced, as I said, some time in and around, I suspect, the third quarter of 2001. Again, fortuitously, my colleague the Hon. Wayne Matthew went to the NEM ministers' forum in December 2001.

A leaked copy of the briefing note that was made available to the South Australian minister from the NEM ministers' forum of 7 December 2001 states:

> . . . NEM ministers note that NECA has forwarded proposed changes to the national electricity code to the ACCC that will have the effect of banning inappropriate bidding and rebidding practices that have been used by participants to artificially raise wholesale pool prices in the National Electricity Market. Note that the maximum penalty that can be imposed by the National Electricity Tribunal for breaching the National Electricity Code is currently a maximum of $100 000 and $10 000 for each day that the breach continues. Agree that the South Australian jurisdiction developed changes to the National Electricity Law to increase the level of penalty for inappropriate bidding and rebidding to a maximum of $1 million per event to provide a level of penalty that more closely reflects the potential financial benefits to be gained from inappropriate bidding and rebidding practices.

In that paper and in other areas, the South Australian government highlighted, again, one of the other inaccurate characterisations of the rebidding practices that, in particular, had been pushed by members of the then Labor opposition. As I said, the view that was being pushed was that the rebidding was being done solely by privatised generators. The NECA reports of 2001 demonstrated that the government-owned electricity generators in New South Wales were leading the pack. They were in it up to their neck in terms of bidding and rebidding practices in a fashion that might be deemed by other—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: They were up to their neck, possibly being advised by the honourable member's colleague Danny Price. There are some interesting developments on that front. We understand—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, we understand that Danny Price's company may well have collected something like $14 million in consultancy fees from the New South Wales Labor government during the period of advising the Labor opposition and the Hon. Mr Xenophon, and up until now. That is an issue that we may well be addressing on another occasion. I understand—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, the $100 million the South Australian government spent resulted in $5.3 billion in proceeds. The $14 million in New South Wales, if that is correct, has not resulted in any sales or returns to the state Treasury. I know what I would be arguing for in respect of that. Anyway, that is an issue which is tangentially related to today's debate. The Hon. Mr Xenophon deflected me by inappropriately interjecting. Perhaps he should go back to his telephone, as the Hon. Mr Sneath indicated.

As I said, at that time the criticisms were being directed at the nasty privatised generators, but the generators that were leading the pack—and I am not saying that the private sector generators, such as Loy Yang in Victoria, were not also engaging in similar behaviour—were the New South Wales generators, in particular Macquarie Generation and Eraring. They are the two big New South Wales government-owned generators. You had a New South Wales Labor government operating public sector owned generators jacking up, through rebidding strategies, electricity prices in New South Wales and nationally.

We were to believe that this New South Wales' government was going to look after us via its benevolence in supporting Riverlink and SNI, and sending cheaper electricity across the interconnector to South Australia. As I said, at the time you had the New South Wales Labor government and its advisers, presumably, advising them but jacking up the electricity prices in the national market through inappropriate rebidding strategies. I might stand corrected but, when this issue was being raised (and it was never picked up by the media, even though we raised the issue a couple of times), the only companies that had been fined by NECA during the early stages of the national electricity market were the government-owned generators in New South Wales.

Subsequent to that, private-sector owned generators have also be fined—they will argue not strictly in relation to rebidding but, I guess, that is a moot point. Nevertheless, there have been private sector generators as well. I am not seeking to paint this as a 'government generator bad/private generator good' policy: I am seeking to disabuse vigorously those who had this notion that public sector generators by Labor governments are good and private sector generators are necessarily bad.

The Hon. Sandra Kanck: That was the design of the market.

The Hon. R.I. LUCAS: The Hon. Sandra Kanck said that it was the design of the market and the design of the rules. I suspect that we will not agree on most issues with respect to electricity but, in this area, I do not disagree with what the Hon. Sandra Kanck is saying. The market rules were there and there were problems, which were acknowledged. As I said, the former government was leading the charge to try to get some of those rules changed. With anything as complicated and as complex as the national electricity market, it is wonderful from the sidelines to say, 'Well, you got the design wrong. You should have done it this way or that way.'

It is always much easier to do that from the sidelines than it is when you are actually in there; and the new government now is finding that that is the case. My recollection was that, in the early stages of when this was being criticised, the only generators that actually 'got done', if I can use that colloquial expression, by NECA, had been one or two of the New South Wales generators, in terms of their inappropriate behaviours. We came to that period when my colleague the Hon. Wayne Matthew, after the work that had been done through 2001, took to the NEM ministers that proposal for the $1 million penalty. That is, in essence, what we are doing today. The work originally started, I guess, around the third quarter of 2001. The former government very quickly took that to the NEM ministers forum for 7 December 2001. What happened at that meeting was that the Labor governments, in particular that of New South Wales but also that of Queensland, effectively put the kybosh on urgent action for the $1 million rebidding penalties. One asks the question why.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: The Hon. Sandra Kanck says it was because they were making money out of the practices. One might also argue that perhaps there was a touch of politics in it. This was just prior to the state election of February 2002, and to have the former (Liberal) government able to lead the debate on higher penalties for generators might not have suited the collective political view of the New South Wales Labor government and the South Australian Labor opposition. Putting that to one side, they had a vested interest in trying to ensure that these penalties did not come in because, as I said, Macquarie Generation and Eraring from New South Wales, in particular, had been actively engaged in inappropriate rebidding behaviour through that part of 2000-01.

What happened in the NEM ministers forum was that New South Wales and Queensland led the charge to say that to try to move down this path of $1 million in penalties was a bit quick; that we ought to look at what happens over the 2001-02 summer and then make an assessment after the 2001-02 summer as to this proposal from South Australia. The numbers were not there at the December NEM forum to proceed urgently with the million dollar penalty. That was the first delay. As to what has happened since this government assumed office in March 2002, there has been no satisfactory explanation. When one reads the contribution from the Minister for Energy, one would be very disappointed because, when asked, he was not able to indicate what on earth had been going on between March 2002 and where we are now in November 2003.

In essence, we have had 18 months of slothful inactivity where most of the work had been done, everything had been set up, and we have now waited 18 months for, all of a sudden, those of us in the Legislative Council to be told that this legislation has to go through this week, contrary to our normal processes for handling it in both the assembly and the council. Again, I do not think that is satisfactory from the Minister for Energy. I know that there has been significant criticism of the minister's capacity to handle the portfolio. There has also been significant criticism of the time he has been prepared to commit to understanding the issues and, more importantly I guess, developing policy responses. As I said, some of that comes from his own caucus colleagues. But, putting that criticism to one side, when one looks at the debate in another place, there has been no satisfactory explanation at all as to why it has been left to the last weeks of this part of the session to try to get it in and done prior to the summer of 2003-04.

I want to address some of the other issues that have been raised in this debate in both houses, but in particular in the House of Assembly. I want to address the contribution from the Minister for Energy and some of the responses that he gave in the reply to the second reading debate. In his contribution, the Minister for Energy was quick to try to make the point that people like Prof. Dick Blandy had consistently opposed privatisation, and he went on at some length about that issue. In summary, he was saying 'Prof. Blandy had told you not to privatise and you went against that sort of advice.' He was happy to see some of the advice that Prof. Blandy was now offering. I have already placed on record in this council, and will briefly do so again, that Prof. Blandy's advice to the former government was actually to privatise ETSA. I have quoted leaked copies of confidential papers that went to the former South Australian Development Council, of which Prof. Blandy was then executive officer, where he was recommending the privatisation of ETSA and with a suggested return of $3 billion.

The former South Australian government would not have been happy with a return of $3 billion but, as I highlighted earlier, the eventual return to South Australians was $5.3 billion and is the major reason why the credit rating agency Standard and Poor's has indicated that potentially we are in a position to move not only from AA to AA plus, as we have, but potentially to a AAA credit rating. This government has never answered the question of how the much-vaunted AAA credit rating would have been achieved if not for the privatisation of electricity assets. I think even the Treasurer was embarrassed into conceding that it would not have been possible without the privatisation of the electricity assets.

It is very easy for the Leader of the Government in this house and others to attack the privatisation but in the very next breath to laud the potential achievement of the AAA credit rating as the primary financial goal of the new government. I am sure that the hypocrisy of those statements will be evident to everyone other than, potentially, the Leader of the Government in the Legislative Council. One of the other claims made by the minister in this debate, if I can summarise it, was that the former government almost engaged in a deliberate strategy for preventing competition in the electricity market in South Australia. That is just palpably untrue. As a result of claims made by the current ministers, some media commentators and others have hopped on the bandwagon in recent times to preach almost as folklore that the former government had deliberately engaged in a strategy of preventing competition in the South Australian marketplace to ratchet up the price of its electricity assets.

On another occasion and at greater length I will go through all the detail in response to that, but given that the issues have been raised in this debate I will briefly rebut those

claims. The former government took a significant number of policy decisions during the establishment of the market and the privatisation that were there with the express intention of trying to see greater competition. The first was that the former government adopted a strategy of disaggregation of the generation assets in South Australia. There were some in the community, including the board of Optima and I believe the Hon. Sandra Kanck and others, who vigorously disagreed with the South Australian government's position and believed that the Optima company, the monopoly government generator, should not have been split up and should have been kept as the monopoly sole government generator.

The Hon. Sandra Kanck has explained her reasons on a number of occasions for that and I will not go into the detail, but I highlight that at the time it was not a slam dunk no brainer (to use a couple of colloquial expressions in succession) that we ought to go down the path of disaggregating the generation assets in South Australia. There were significant interests, including the government's own board on Optima, with senior business people on the board, who said to us, 'You'll maximise the value of your asset if you sell off Optima as a single generator.' That was definitely true. If you are selling off a monopoly asset like a generator in a privatised market, depending on the controls, clearly it would be worth a hell of a lot more than a disaggregated competitive generation industry.

The South Australian government took the view that we would not and could not support such a policy option, even if it meant that we were going to be able to get more money for the generation asset. It may well have been that the ACCC would not have allowed that sort of arrangement, although when one looks at what is allowed in some of the other states, particularly New South Wales, I sometimes wonder. The issue was that it would disaggregate into two or three generation assets, and the decision we took was to disaggregate into three competitive generation assets in South Australia.

We also took the decision originally for the third company, which was Synergen, essentially the small peaking plants, to try to sell it off as a development option for the new power plant at Pelican Point. So the operator of the new power station at Pelican Point would have a big base load plant, together with peaking options with it. For a variety of reasons we have discussed and debated over the years, we were unable to do that as a lump sum originally and we fast tracked the development option of Pelican Point. Again, to use a couple of colloquial expressions sequentially, that was not a slam dunk no brainer decision either as we had significant people, including the Labor Party, the Hon. Mr Xenophon, academic economists and others, who opposed the fast tracking of Pelican Point power station. Some simply opposed it and others opposed it on the basis that it should come after Riverlink was built, as was the Hon. Mr Xenophon's position.

Had we adopted that policy, we would never have had or been still waiting for the Pelican Point power station because Riverlink and SNI is still not built. We always said that it was not our decision as the former government to stop Riverlink but the decision of NEMMCO; nevertheless the Labor opposition said that that was not right. It has had almost two years to try to build Riverlink and has been unsuccessful in doing so. If we had adopted the position put to us to not build Pelican Point until after Riverlink or SNI had been constructed, we would have had in the past two summers a significant period of blackouts and load shedding in South Australia because Pelican Point is providing us with almost 500 megawatts of capacity.

The point we continue to make and made at the time, which in the lead up to the election and the privatisation debate was significantly muddied, was that there were two issues in relation to Pelican Point. One was that we could fast track it, even though the Labor opposition and everyone else argued against it. We knew that we could do it because we did not have to rely on independent national authorities. If the government was prepared to front up to the protesters and was prepared to have the police down there stopping protesters getting into the site and all those sort of things being organised at the time, we could fast track it and get the power station up by the summer, when it was required. We could not do that in relation to any interconnector—forget SNI—it was impossible.

It was an easy criticism at the time to say that you could or should have done it, but even the new government is finding that that is not true. Just because you want an interconnector, if you have an independent national authority and other state governments with vested interests, it is not always possible to get it done as quickly as you want. That was the first issue. We knew that we could get Pelican Point done quickly, and that is why we needed to have Pelican Point up and going for the summers following. There are a number of other reasons in relation to Pelican Point, and again we have discussed some of these on other occasions, but one of the points was that we knew that Pelican Point at 500 megawatts would be a significant competitor for, in particular, Torrens Island.

If I were a private sector operator and owned Torrens Island and controlled the market, I would not have fast tracked the building of Pelican Point but would have delayed it, because I know that selling Torrens Island, with a much more efficient 500-megawatt power station just down the road, would reduce the value of Torrens Island as it would be used less. When the new operators of Torrens Island bought TXU they acknowledged that publicly at the time, and that was part of the reason for the lower price generated for TXU or Torrens Island.

They were conscious decisions taken under significant criticism from a wide variety of sources at the time and were directed towards having a more competitive electricity market. We also fast tracked peaking power stations all over the place—in the South-East at Ladbroke Grove, in the Mid North, at Hallett—so the original one government generator that was split into three and attracting International Power as another competitor and attracting peaking power operators at Hallett and in the South-East was all directed towards trying to get more competition into our marketplace. If the question more appropriately put is, 'Is that sufficient competition?', then I would have to readily concede that it is not sufficient. We need more in terms of competition. Again, I say to this government (as the member for Bright has), what has this government done in 18 months in terms of increased competition and generation? The answer is precious little.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: When one goes back over the past four years, between 1997 and 2001 there was an increase of approximately 35 per cent to 45 per cent in electricity capacity in South Australia with interconnectors and new generation in South Australia. In about the previous 10 years, again under a previous Labor government, there had been precious little.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway says, 'Well, don't worry about it, we had sufficient capacity.' The reality is that we did not. That is the reason why, in the four years under the former government between 1997 and 2001, we had to fast-track significant additional capacity—because the former government had done nothing.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: There were recommendations for additional power in reports to the former Bannon government in the 1980s which were ignored by the former Bannon government. That has been placed on the record, as well. The former government did nothing in terms of supply planning. The problem we have at the moment is that this government is doing nothing in relation to planning and supply options for the future. There have been many significant warnings about the supply capacity of Australia and South Australia over the next 10 years, in terms of how much supply will be required, and this government is doing nothing. This government is doing nothing in relation to increasing supply capacity options in South Australia.

Part of the problem, of course, is the debate within the Labor government on the privatisation of the industry. The opposition's position is that new supply options ought to be generated by the private sector, but this government, with its supposed anti-private sector approach to government policies, is caught 'twixt and 'tween. There are not only some within the caucus who want the government to be involved in buying back options, such as NRG, which are currently on the market—which if the government were true to its rhetoric it would look at—but also others saying there ought to be some government involvement in new generation supply options for the future. Of course, the issue then is where do you get the money if you are going to be involved?

In all those areas in terms of generation, there was the fast-tracking of the underground interconnector Murraylink, the offer of fast-tracking to Riverlink and SNI, and the offer of fast-tracking to interconnector options. Various options were suggested about augmenting the South-East interconnector. I know the former government was criticised by the Labor opposition about augmentation of the Victorian-South-East interconnector. Again, for 18 months we have been waiting to see this government's policy response in relation to that issue. I remember questions by the Leader of the Government about how, supposedly, the former government had stopped, I think, Clive Armour's proposal for augmenting the South-East interconnector. Well, in 18 months we are interested and we are waiting to see what will be done by this government in relation to those proposals.

In relation to the interconnector proposals, too, the Minister for Energy has been seeking to take ownership of the fact that it is only the Labor government that supports the augmentation of the interconnection system across the border to make the Murraylink option work. Again, that is palpably incorrect. The former government had had discussions about what needed to be done to augment the system if Murraylink was to be the operational link between the eastern states through the Riverland. We have been strong supporters of the augmentation of the Snowvic interconnection, again using the argument that, as long as power is coming from New South Wales into Victoria and we could dump Victorian power into South Australia, that would certainly assist South Australia as much as power being dumped directly from New South Wales into South Australia.

The other issue that has been raised by the Minister for Energy is a furphy which has been raised publicly that, shock, horror, the government sold the retailing side of the business to a monopoly retailer; the implication being that the government sold it to a monopoly retailer and it has been only the new government that has been seeking to open up competition in the retail industry. That is palpably untrue. As with other governments, but certainly the South Australian government's position, and approved by all the appropriate bodies such as the ACCC, was to move from a position where we had a government-owned monopoly retailer through a phased introduction of competition in the various sections of the market. The big business section of the market was opened up to competition at a certain date; then the medium-sized consumer section was opened up at a subsequent date; and, subsequently, the final date for full retail contestability was 1 January 2003 for households and very small businesses in that section of the market.

It is untrue to suggest that the government sold the retail business to a monopoly retailer and, basically, left it there. The government sold a monopoly government retailer to a monopoly private sector retailer under strict conditions where over a period of time competition would be introduced to various sections of the market; and while that was occurring prices would be controlled during the monopoly stage of the market. For example, for residential consumers, until January 2003 household prices were controlled so that the monopoly private sector retailer AGL could not reap the benefit of being a monopoly private sector retailer during that period up to January 2003. It is untrue in debate in both the parliament and publicly to be suggesting or implying that the government's position was one of trying to stop competition to ratchet up prices of assets such as the generators and the retailers.

There are many other things the Minister for Energy has alleged in debate in another place, but I want to address only that handful of issues. There will be other occasions to address the other issues he raised in his contribution. I indicate that the Liberal Party supports the second reading of the bill and also the views my colleague the member for Bright has put that this government has done precious little in relation to electricity reform. It has not kept the promises it made prior to the election of delivering an interconnector and lower electricity prices for consumers in South Australia, and I am sure it will be roundly condemned at the next opportunity by the people of South Australia.

The Hon. NICK XENOPHON: This debate has a certain sense of deja vu. It brings back memories of the halcyon days a number of years ago when there were many, varied debates on the issue of electricity and privatisation. I do not think the word 'Riverlink' has been uttered by the Leader of the Opposition for some time.

The Leader of the Opposition said that the market has had teething problems, but I think that some would say that it is more a case of major gum disease. The market has been in need of root canal treatment in terms of the way in which the market has worked or not worked for the benefit of consumers. I do not resile from the position I took a number of years ago on the Riverlink interconnector, and I appreciate that the Hon. Mr Lucas does not resile from his position.

I think the Hon. Mr Lucas did make the fair point that this is not necessarily the bill to discuss and debate all these issues, but I think it should be stated that the former government supported and fast-tracked the Murraylink interconnector on the basis that it was an unregulated and entrepreneurial interconnector that would not cost taxpayers any money. However, we saw a massive backflip on the part

of the proponents of Murraylink wanting to put out their hand for taxpayer dollars, seeking subsidies, in a sense, with respect to Murraylink becoming a regulated interconnector. That is not a criticism of the former government, but I think we need to put on the record that Murraylink was fast-tracked on the basis of it being an entrepreneurial interconnector. When I spoke to the proponents of Murraylink a number of years ago, they assured me that they were not going to put out their hand for regulated status. I should rise to the defence of Mr Danny Price—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: If the Hon. Legh Davis was here, we could have expected a bit of singing of *Danny Boy* from the back benches, as the Hon. Legh Davis did whenever Mr Price's name was mentioned when he thought the former government had an obsession with Mr Price. This is a man who has given advice to governments in Queensland, New South Wales and Victoria, including the former Liberal government there. His advice was good enough for them but not good enough for the former government. Having said that, I want to put on the record that I have a lot of respect for Mr Price. His interest is to ensure that a market works in a competitive fashion and that consumers get the best possible deal.

With respect to Professor Dick Blandy, in relation to the document that was leaked whilst I think Professor Blandy was working with South Australia's Economic Development Council, I was shown a copy of that leaked document by a very senior member of the former government—and I hasten to add that it was not the Hon. Mr Lucas; I am sure he does not do things like showing leaked documents—as part of a campaign, I think, to disparage Professor Blandy. I urge the Hon. Mr Lucas to table the entire document to put it in context, because my understanding is that that was drafted in Professor Blandy's capacity as chief executive at the time of the Economic Development Council, and it was signed off by Ian Webber. My understanding is that the context was quite different in terms of issues of interstate competition and risk factors there in relation to competition. If I am wrong, perhaps we can clear that up. I urge the Hon. Mr Lucas to table the document, because I have not seen the entire document.

The Hon. R.I. Lucas: I had conversations with Dick Blandy where he used to urge us to support privatisation.

The PRESIDENT: The honourable member will not be having a conversation at the moment; the Hon. Mr Xenophon has the call.

The Hon. NICK XENOPHON: I support this bill because I think it is important to send a signal to generators that inappropriate behaviour and manipulation of the market will not be tolerated. However, I do query whether this bill will do what it is supposed to do. I think the Hon. Mr Lucas made the point that sometimes rebidding can be rebidding at a lower price, and I query how the regulatory framework will work in order to fulfil the intent of the legislation.

My concern is that this legislation will not be a piece of window dressing where there are significant penalties in place but there will not be an appropriate or effective regulatory regime and system of enforcement to ensure that market behaviour and manipulation of the market and that a breach of the market rules will not occur. My concern is that it may look good on paper but it might not deliver the benefits to consumers.

A number of years ago, we were promised a competitive electricity market. We were told that there would be cut throat competition but, in fact, it has been the throats of consumers that have been cut in terms of high power prices. It is important that we put in perspective what this is ultimately all about. I will not forget an interview with a talkback caller on the Matthew Abraham and David Bevan program on the ABC on 891. A caller called Ted rang in quite distressed that a pensioner friend of his (it may have been a family member) had just received his electricity bill. It had caused that person enormous distress because he was having trouble paying the very significant increase in his bill.

I understand that, even this morning, the new Editor of the *Sunday Mail*, Mr Phil Gardner, was on the ABC talking about a *Sunday Mail* article where they have had a huge response from consumers who have been hit hard by power prices—the mums and dads, the pensioners and those on fixed incomes who have been struggling with these increased power prices. I would like to think that all of us in this parliament are deeply concerned about that. We all have an obligation to do all we can, in a constructive sense, to ensure that the burden for those people is alleviated. That is what it boils down to: inappropriate bidding behaviour and a manipulation of the market. Gaming by generators (an interesting term) is something that can force up prices and cause considerable harm to consumers. Let us not forget that, because of the significant increase in power prices, there has been, in effect, a shift of discretionary income (and it is not so discretionary when it comes to power prices) of something like $150 million plus consumers are now paying for prices than they were several years ago. The promises of the National Electricity Market have clearly not been fulfilled, which raises questions about the structure of the market.

Again, I do not resile from my position on Riverlink, and I appreciate that the Hon. Mr Lucas does not resile from his. Clearly, something has gone seriously wrong and consumers are paying a very heavy price in terms of the way in which the market is operating. It raises some other issues in terms of demand management. I know that both the government and the opposition, over a number of years when the roles were reversed, were talking about demand management and conservation issues that could make a difference. I do not think we have seen much activity in that regard, but that would be an important way of at least sending some market signals in relation to reducing the impact of power price increases.

I propose to ask a number questions during the committee stage as to how this is supposed to work and how it will make a difference to ensuring there will be enforcement and that inappropriate practices by generators will not occur or will be substantially diminished.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank honourable members for their indication of support for this measure. With the passage of this bill, the government will be delivering on a key energy commitment through new legislation that ensures that participants in the electricity industry receive proportionate penalties for significant breaches of the market rules within the National Electricity Market. The legislation introduces a new D class penalty provision into the National Electricity (South Australia) Act 1996, imposing a penalty not exceeding $1 million for breaches of the National Electricity Code and $50 000 for each day the breach continues.

The Hon. Sandra Kanck, in her speech on this bill, indicated that the sceptic's view was that the new penalty will not have any impact. I am advised that it would be difficult

to predict the exact outcome of the changes, but a significant penalty highlights the serious nature of the problem the government considers this issue to be. It would be expected that generators would seek to modify their behaviour to avoid breaching the code. If generators subsequently breached the provision, the National Electricity Tribunal would be able to impose a substantial penalty that would more accurately reflect on the potential revenue benefit. The requirement that market participants' bids and rebids represent their genuine intentions at the time they are made has been in operation since 1 February 2003.

NECA has advised that the May 2001 issues paper on rebidding indicated that the level of rebidding was an average of 800 rebids per day across the NEM. NECA advised that its June statistical digest showed that this number had dropped to 460 per day, and the September digest showed a figure of around 400 rebids per day. The Hon. Sandra Kanck indicated that there have been only three convictions, but anyone who knows the NEM understands that there have been many more instances of transgression, with one highly publicised case involving a South Australian generator, when a conviction did not eventuate. I have been advised that there has been only one conviction under the rebidding clause (Macquarie Generation in 2002), although three generators were found guilty of breaching information provisions following the investigation of the events of 25 January 2003 in South Australia that were associated with the gas emergency.

The Hon. Sandra Kanck read from an internal Loy Yang document that indicated that Loy Yang was reconsidering previously announced upgrades due to the increased regulatory risk in the market, as demonstrated by this bill. I am advised that officers are unaware of this document from Loy Yang. Importantly, this highlights that investment decisions in the NEM are determined by the participants, based on their assessment of the financial viability of the project, which would include an assessment of future revenue streams from the wholesale pool. However, an investment would be unlikely to proceed only on the basis of pool revenue and would normally be underwritten through financial contracts with other parties, such as a long-term hedge contract, as banks usually require more certainty over revenue than can be provided by the pool.

The government is not seeking to increase the regulatory risks in the market unnecessarily and has indicated consistently that providing generators with flexibility regarding bidding and rebidding strategies is essential for the efficient and effective operation of the market. This flexibility is fundamental to the design of the market, as it provides scope for generators to manage risks, such as those associated with plant operation, constrained fuel supplies and contract positions. However, the government fundamentally opposes inappropriate generated bidding and rebidding strategies that artificially raise prices in the NEM which, ultimately, must be paid for by households and businesses.

The Hon. Sandra Kanck highlighted rumours that the plant upgrade at the Northern Power Station at Port Augusta is on hold due to the impact of the new penalty. I am advised that the latest advice received from NRG is that the upgrade of the Playford power station is progressing well, although there have been some short-term commissioning delays associated with the project. The Hon. Sandra Kanck suggested that there was a need for capacity payments in the NEM. I am advised that NECA undertook a review of capacity payment mechanisms last year, but there was significant opposition to the proposals. The Energy Consumers Council has highlighted that it will be investigating capacity mechanisms over the coming year.

The Hon. Sandra Kanck suggested that the energy minister should utilise the role of lead legislator in the NEM to demand that his interstate counterparts overhaul the design of the NEM. I am advised that the NEM was established under a joint legislative framework with the participating jurisdictions. The National Electricity Market Legislation Agreement (NEMLA) between the participating jurisdictions governs the states' rights and obligations in respect of this legislative framework. South Australia is the lead legislator under the NEMLA and the National Electricity (South Australia) Act 1996, with other participating jurisdictions having similar mirror legislation in place.

The NEMLA requires the approval in writing by all designated ministers of the participating jurisdictions for amendments to the act and regulations. This is also reflected in section 11(2) of the act, which requires the unanimous approval of the designated ministers. Accordingly, being lead legislator does not give scope for the South Australian minister to act independently of the other jurisdictions on any particular issue.

I am advised that the Parer review commissioned by COAG into energy markets supported the retention of the existing gross pool, with the MCE preparing to respond to COAG on Parer, although I am advised that there is no suggestion of changing the fundamental market design at this stage. However, it is important to note that the government is currently actively progressing reforms to the overall regulatory structure of the NEM and the gas industry which will provide a key role for the jurisdictions to address policy issues in the NEM.

The Hon. Andrew Evans raised a question as to the sort of evidence that may be relied upon by NECA to establish a lack of good faith. I am advised that the ACCC determination of 4 December 2002 authorised changes to the bidding and rebidding rules that created an obligation for market participant bids and offers to represent their genuine intentions at the time they are made, and this obligation will apply both to initial bids and any subsequent rebids.

The relevant part of the code (section 3.8.22A(c)) provides that whether or not a market participant has a genuine intention to honour its bid or offer may be ascertained by inference from the market participant's subsequent conduct in the market. I am advised that, in the NECA guidelines issued in January 2003 regarding the enforcement of section 3.8.22A, NECA indicated that the ability to infer the purpose or intent from the conduct of the participant would allow the tribunal to conclude, for example, that, if a rebid varied significantly from the original bid when all surrounding circumstances were otherwise identical, the original bid was made without a genuine intention of honouring that bid.

NECA also indicated that, if a participant provides evidence that explains its conduct as being indeed a direct response to a change in material conditions or circumstances, an adverse inference will not be able to be drawn from the conduct. Therefore, NECA would look at bidding strategies in the NEM and require evidence that a material change in circumstances has occurred (such as a change in contract position, fuel supply, or technical problems, etc.) to justify a rebid. However, I am advised that it is worth noting that the interpretation of the market rules is the responsibility of the National Electricity Tribunal, and it is the tribunal that will

determine a lack of good faith based on the individual circumstances of the case.

The Leader of the Opposition spent some time in this debate referring to the history of this matter and answering broader electricity questions that were raised in another place. I believe that most of those issues were not strictly relevant to the bill that we have before us, which is really only one clause. However, I will make a few comments.

The leader criticised the government for the fact that this bill was being rushed through, and I think that those were the words that he used. I point out that this bill was introduced in this council on 23 October; prior to that, it had been before the house for some time. It certainly needs to be passed quickly, and we appreciate the support for that to happen. However, it is a little unfair to suggest that this measure is being put through with undue haste, since it has been around this chamber for at least two or three weeks.

The Hon. R.I. Lucas: We haven't been sitting for the past two weeks.

The Hon. P. HOLLOWAY: Well, we have had two or three weeks to look at it. It is not as though we wanted it through on the same day that we introduced it. The leader made some other comments in relation to Riverlink and SNI that I would love to give my perspective on in greater detail, but it is probably not relevant to the bill, so I will refrain from doing so now. The leader also made a number of other comments which, in a broader debate on electricity, I would be pleased to address. However, as I say, those comments do not specifically relate to the measure before us today. I conclude by thanking members for their indication of support and I look forward to the debate in committee.

Bill read a second time.

In committee.

Clause 1.

The Hon. NICK XENOPHON: In terms of the way the market works, the framework and increased penalties, what are the triggers, mechanisms and resources to investigate this, if this occurs? Given the complexities of this market, how do we know that this will be an effective policing mechanism which ensures that generators do not engage in inappropriate conduct?

The Hon. P. HOLLOWAY: I answered that, to some extent, when I addressed the comments that the Hon. Ms Kanck raised. The Hon. Ms Kanck indicated that the sceptics' view is that the new penalty will not have any impact. I said I was advised it would be difficult to predict the exact outcome of the changes, however, a significant penalty highlights the serous nature of the problem the government considers this issue to be. It would be expected that generators would seek to modify their behaviour to avoid breaching the code. If generators subsequently breach the provision, the National Electricity Tribunal would be able to impose a substantial penalty that more accurately reflects the potential revenue benefit. That goes to the core of the problem.

If a company faces a relatively minor penalty but can make much greater revenue gains, what value is there in having the penalty? In an economist's world, a rational company would take the penalty into account and behave accordingly. It would regard it as a cost, rather than a penalty—par for the course for many, apart from any public opprobrium that might be associated with it. The point is to introduce a penalty that will more accurately reflect the benefits that might be gained from it and, therefore, act as a much more sensible deterrent.

I also indicated that the market participants' bids and rebids represent the fact that that requirement represents their genuine intentions at the time they are made and has been in operation since 1 February 2003. NECA advised, in the 1 May 2001 issues paper on rebidding, that the level of rebidding was an average of 800 rebids per day across the NEM. NECA's June statistical digest showed that the number has dropped to 460 per day and the September digest showed a figure of around 400 rebids per day. NECA has indicated that it will continue to monitor through the guidelines on enforcement, which we could make available to the honourable member. I am sure they are available on the web if he wishes to look at them.

The Hon. R.I. LUCAS: Since the rebidding rules commenced, has there been an offence committed and a penalty levied?

The Hon. P. HOLLOWAY: My advice is no.

The Hon. R.I. LUCAS: When did the new rules commence?

The Hon. P. HOLLOWAY: On 1 February 2003.

The Hon. NICK XENOPHON: Is there any estimate as to what it has cost consumers in this state in terms of inappropriate bidding practices? Are there any estimates made by the government or the administrators or any other relevant authority as to what this has cost consumers in the past?

The Hon. P. HOLLOWAY: I understand that some modelling was done in March 2002 in relation to the costs associated with rebidding. The modelling is based on several events that occurred, one of which was a period of hot summer weather—Thursday 25 January 2001; I remember it well—with average maximum demands up 10 per cent in South Australia for the week ending 27 January compared to the previous week. A new record total demand of 2.728 gigawatts was established on Wednesday 24 January 2001. As a result of that modelling, the spike price resulted in an increase in the gross expenditure for the South Australian region of approximately $6.1 million for the two hours, assuming that the average peak price for the week of $490/MWh applied during the two hours. There has been some modelling, but sometimes when you have high price spikes, as we indicated earlier, they may be due to quite legitimate reasons. That was a particular one that was looked at that may provide some indication of the order of magnitude.

Clause passed.

Remaining clauses (2 to 4) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

CROWN LANDS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 October. Page 359.)

The Hon. CAROLINE SCHAEFER: This is a sorry saga, which has now dragged on through the parliament, the media and the public of South Australia since the first budget of the Labor Party. It is probably the singularly most stupid thing that any government, and certainly this one, has done.

The Hon. T.G. Roberts: Big call!

The Hon. CAROLINE SCHAEFER: The minister interjects that that is a big call, and I would have to agree with

him. This government has done some monumentally stupid things, but this particular bill—as you, sir, would know as someone who does live in the country and does know a number of people who have crown lease perpetual titles—goes into the superlatives of stupidity. It has singularly put most rural dwellers and, certainly, most crown lease perpetual titleholders against this government. I am a very generous and kind-hearted person, and I would like to think that this move was made out of stupidity and ignorance rather than out of spite and malice.

It was the view of the minister at the time (obviously, particularly badly advised) that crown lease perpetual was, in fact, some sort of commercial rental, and he made some monumentally stupid statements publicly. For instance, he cited a motel in Whyalla as paying peppercorn rental, and he required that it be put to a commercial lease type of arrangement. Every member here now knows, and every person who had a crown lease perpetual at the time always knew, that as the interim report of the select committee stated, the purpose of crown leases was 'a means of expediting agricultural land settlement programs by providing an alternative for the payment of a relatively small annual rent in perpetuity to prospective settlers who could not afford to purchase the freehold interest for a capital sum.'

That had been the arrangement since settlement in the late 1800s and, particularly, the early 1900s. So, the history of this was that some of our most marginal lands had the most perpetual lease titles. We had the situation of the minister proudly announcing that they would all move to a minimum of $300 per year rental when many of them were paying in the vicinity of $5 to $10 per rental, and many of them had multiple titles. In fact, on the northern Eyre Peninsula and in the Murraylands, we had instances of people with 50 and 60 titles, none of which had ever been taken up.

Some of them were surveyed and set up at a time when many people settled that country in good times and, to their great horror, quickly discovered that much of that country has very intermittent rainfall. Many of the crown lease perpetual titles had changed hands at freehold rates over generations and, to all intents and purposes, the titles had been treated like freehold, except that people paid a peppercorn rent on an annual basis. What would happen when someone sold a crown lease perpetual title was that it would change hands at exactly the same money as if it had been a freehold title, and people purchased that land in good faith.

As I say, being the generous person that I am, I prefer to think that the minister was abysmally advised, that he had not done his homework and that, in the interim, he has learnt a salutary lesson from such ignorance. In the meantime, of course, many of these titleholders have been put through some extraordinarily anxious times in the belief that they may suddenly be paying thousands of dollars annually for something that currently costs them hundreds of dollars annually. It is interesting to know that, at least anecdotally, this proposition was put to some of the ministers in our government and they found it extraordinarily amusing that anyone would put such a proposition to them, let alone consider that anyone would be silly enough to act on it.

It was claimed at the time that the costs associated with administering crown leases were exceeding revenue by some $500 000 per year. It was the opinion of the minister, in a press release dated 11 July 2002, that the current level of crown land rent amounted to peppercorn rental; and, of course, it did, because that was the whole idea of the scheme. The Hon. Ian Gilfillan was able to produce an original title which gave his family perpetual lease for, I think, £1 2s 6d annually in perpetuity. It was our belief that, had this issue been taken to the courts at the time, it could have been proved that the actions of the government were quite illegal.

As a result of that particular mistake, a select committee was set up in the lower house to discuss some way of working our way through what, by that stage, was total panic by the landholders across South Australia. As I have said, crown lessees have had the option for many years of freeholding, and they have been able to treat their properties like freehold. Under our government—and certainly there were a number of anomalies, in my view as a landholder and a former landholder of crown lease perpetual land—we could have done it better, too, because there is a real incentive to have people freehold their land, and there is very little doubt about that.

However, under our government in 1996, the price for freeholding was set at $1 500 per title, or 20 times the annual rent, whichever is the greater. Only a few thousand leaseholders took up this offer because the majority considered the price was not cost effective. This becomes obvious when you consider that over 75 per cent of all lease rents are less than $25 and would take at least 60 years to realise any financial benefit from freeholding a lease at $1 500. I must add that the native land title tribunal nationally found that, to all intents and purposes, crown lease perpetual was to be treated in the same way as freehold. On announcement of the bill, the government immediately increased the freeholding purchase price from $1 500 to $6 000 or 20 times the rent, whichever is greater. That is where I personally am at great odds with what the government has done, because it then announced a discount until September 30 of this year to $2 000—a discount from $1 500 to $2 000—and said 'Unless you freehold by 30 September it will be $6 000.' Bang: that is it.

In my view that is nothing more nor less than blackmail. What I believe minister Hill and his cabinet have done is blackmailed landowners across the state into freeholding whether they can afford it or not, whether they want to or not, or whether morally they should need to or not. Caught in the cleft of this—and in my view very ably represented by their member, the member for Chaffey—were a number of returned servicemen, because they had perpetual lease titles on their housing blocks in towns like Loxton. So we now have the government saying, 'Okay: what we really want is for you to freehold so we will let you do that at the discounted rate of $2 000 and, if you don't, we'll slug you $6 000 after 30 September.' They threw in a couple of other interesting sticks.

In my view, there were far more sticks than there were incentives, one of those being compulsory freeholding at change of title. That remains part of the bill in spite of the best efforts of the select committee. If someone has not applied for freehold now and, some time in the future, they wish to pass that property over to their son or daughter or to sell that property, built into their ongoing costs will be a $6 000 inheritance tax per title. There is no way out of that unless we can successfully amend some of those things in this house.

As a result of it being pointed out to the government that its action of increasing minimum rent to $300 per title from, in many cases, as low as $3 per title, with people holding 60 or 70 titles in some cases, was probably illegal, and as a result of the hard work of the select committee, the government agreed to relinquish that demand which was, of course, one of its budget measures but, in its place, sought to put a $300

minimum service fee per title. So, it was very much a case of the lord taketh and the lord giveth away.

The Hon. R.K. Sneath interjecting:

The Hon. CAROLINE SCHAEFER: No, as the Hon. Bob Sneath points out, they did not giveth anything, that is true. They actually continued to charge by another name a minimum service fee, now, of $300 per title. As very often happens with something like this, when the legislation is opened up it causes all sides to go back to the original legislation and to go back to their own methods to see what can be improved. As a result of that, on 1 May this year and as a response to the interim report of the select committee, the Liberal Party put down the following 13 dot points which are our principles as far as this piece of legislation is concerned:

1. All perpetual leases, except those in metropolitan Adelaide, be available for freeholding.

I understand that the exception is a quite lucrative golf course, which has been under perpetual lease and under the control of the crown since it started. I understand that that is the only perpetual lease in the metropolitan area. It continues:

2. All miscellaneous leases used for broad acre agriculture purposes be available for freeholding on the same basis as perpetual leases.

That is to do with the marginal lands leases. We have somewhat ridiculous circumstances at the moment. I have a nephew who is in the somewhat bizarre situation of having half his property virtually forced into being freeholded but he wants to freehold all the property, which has been managed under the same circumstances for as long as it has been developed but, because part of his property is miscellaneous lease, he is not allowed to freehold that part. What we are calling for there is equity. It goes on:

3. Freeholding of multiple leases be permitted under the following conditions: $2 000 for the first six leases, $300 per lease for seven to 10 leases, and $200 per lease thereafter, each lease being able to be replaced with a title. $1500 for residential properties less than one hectare (to comply with recommendation 11 of the final select committee report).

What we are saying is that we would favour a sliding scale for freeholding. I hark back to the fact that the reason given for this preposterous charge originally was that collecting the rent cost more than the income derived from it. We believe, particularly under the threats that these people now face, that freeholding is the best way to go. But if the income derived from it covers the expenses, and it certainly would, why not actually make it possible for those who most need to do it, in the most marginal areas with the most titles, to freehold? It continues:

4. Twenty times the annual rent no longer apply as the basis for establishing the cost of freeholding.

I can at a later date produce documentation from constituents, who are quite happy for me to use it, showing that the 20 times rule would cost them tens of thousands of dollars. It continues:

5. The provision for compulsory freeholding on transfer of ownership no longer apply (recommendation 22 of the final select committee report).

6. Hardship cases be given three years to meet cost of freeholding.

As I understand it, that currently applies to those along the River Murray but not to anyone else. It goes on:

7. Those people who operate various leases as one farming unit in a council area should be allowed to freehold under the same conditions as contiguous leases (recommendation 13 of the final select committee report).

8. All lessees with multiple leases be advised of the cost and future consequences associated with the options to amalgamate or include multiple leases on one application prior to freeholding, the government to recommend to lessees that they take professional advice prior to a decision to freehold.

This has gone on for so long now that people are thoroughly confused as to their rights and their commercial options. It goes on:

9. All lessees who determine that it is not economically viable to amalgamate or freehold be permitted to pay 20 years rent in advance or surrender their lease for merger with an adjoining title.

If this is about covering costs, then why not allow someone to pay 20 years in one go and get on with using the money? It would save both the lessees and the department paperwork. It continues:

10. A retired judge be appointed as arbitrator to determine fair and equitable resolutions for anomalies and disputes that arise between leaseholders and the department as a result of the accelerated freehold policy (that complies with recommendation 27 of the select committee report).

11. Perpetual lease land used for community purposes be transferred to local government or its nominee at no cost.

12. Lessees whose property abuts water courses or the coastline should not have to bear the cost of the survey (and that complies with recommendation 20 of the final select committee report).

I have constituents on Eyre Peninsula, as do you, sir, who have 15, 16 or 20 kilometres of coastline. Under the current application of restrictions they would have to fence all of that coastline. It is our belief that, because they cannot freehold coastline, the cost should be borne by the government. It goes on:

13. Finally, any title with a heritage agreement on any portion be able to freehold as per the above principles, except the fees are to be charged on a pro rata basis, in line with the percentage of unencumbered land.

It is our belief that, if someone has granted a heritage agreement to this or any previous government, they should then not be asked to pay money to freehold what is essentially not theirs to use. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

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

PAPERS TABLED

The following papers were laid on the table:

By the President—

Alexandrina Council—Report, 2002-03

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

The Legal Practitioners Education and Admission Council (LPEAC)—Report, 2002-03

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

Reports, 2002-03—
- Animal Welfare Advisory Committee
- Coast Protection Board
- Department for Environment and Heritage
- General Reserves Trust
- Guardianship Board of South Australia
- Passenger Transport Board

South Australian Soil Conservation Council
TransAdelaide
Windmill Performing Arts Company
Progress Report in Implementing the State Water Plan 2000 during 2002-03—Report, September 2003.

AUSTRALIA-UNITED STATES FREE TRADE AGREEMENT

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to the Australia-United States Free Trade Agreement made earlier today in another place by my colleague the Minister for Industry, Trade and Regional Development.

QUESTION TIME

ANANGU PITJANTJATJARA ALLOCATIONS COMMITTEE

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

Leave granted.

The Hon. R.D. LAWSON: Members will be aware that Anangu Pitjantjatjara is a statutory corporation established under the Pitjantjatjara Land Rights Act. The executive board of that statutory body has changed its name and now calls itself the Anangu Pitjantjatjara Yunkunytjatjara Land Council. The minister will be aware that the APYLC has established an allocation committee, which is meeting this week in Alice Springs to allocate some $1.5 million to different programs and communities.

The allocation committee sent out an invitation to all communities on the Anangu Pitjantjatjara lands, inviting representatives of communities to attend the allocations committees. The circular stated:

> This is a new way for Anangu—to work together—everyone sharing the responsibilities towards helping fix the problems on the Lands. . . .We have over $1 500 000 approx. to allocate to different programs i.e. petrol sniffing, family violence, youth development, mothers & babies programs etc. . . .We have to work out a fair way to allocate this funding and make sure it is helping to fix the problems in our Anangu Communities and not wasted.

Iwantja Community Incorporated is the body established at Indulkana on the lands to represent the Iwantja community. That community nominated a Mr Bernard Singer to represent it on the allocation committee. The Chairman of AP, Mr Gary Lewis, refused to allow Mr Singer to attend. I have been provided with a copy of a letter signed by some 20 people from the Iwantja community, which states as follows:

> Our municipal services order officer, Ray Connolly, was unavailable to attend and Bernard Singer was chosen to take his place instead.

Bernard Singer is the reporting officer of Iwantja Community Council Incorporated and is also an ATSIC regional councillor and immediate previous chairman of the community council. He is also employed as a works supervisor within the community. His name was put forward by telephone to Mr Gary Lewis, but Mr Lewis 'flatly refused to allow Mr Singer to attend the meeting'. The letter continues:

> Mr Singer has had previous dealings with Mr Lewis and his inability to allow any other point of view rather than his own—

that is, Mr Lewis's inability—

> Mr Singer feels there is a personality issue affecting Mr Lewis and his ability to be objective when dealing with Mr Singer. This attitude is not assisting community Anangu to be heard at a regional level.
>
> One is left to ask who made up the rules, under whose direction and for what purpose. Why is it necessary to keep informed Anangu out of the meeting? Why are the rules, previously set, ignored by the chairman at his discretion? Who is in control at APY: the executive, the director or the chairman of meetings?

My questions are:

1. Is the minister aware of the fact that the allocation committee is meeting in Alice Springs this week?

2. Is the minister aware of the fact that Mr Gary Lewis, the chairman, has refused to allow a respected community member, Bernard Singer, to attend that meeting?

3. Is the minister aware of the reasons why Mr Singer was not permitted to attend? Will the minister state what those reasons are and whether he agrees with them?

4. Did the minister approve, and does he approve, of the renaming of AP (the statutory body) as the newly named but not authorised by statute Anangu Pitjantjatjara Yunkunytjatjara Land Council?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will answer the honourable member's questions from 1 to 5. In relation to whether I was aware of the allocation meeting to be held in Alice Springs in the next couple of days, the answer is yes. In relation to whether I was aware that Bernard Singer had been refused entry to participate, the answer is no. I am not quite sure how that decision was made, but I suspect it was made by the AP executive.

The carrier of the message was Gary Lewis, who was the chair or an AP executive member. The answer to both questions 3 and 4 is no. I was made aware of the fact that there was a name change to AP, but I do not think that it changes any of the constitutional responsibilities of the committee. However, in relation to Bernard Singer's situation, it is quite possible that, because Bernard was not a community representative and the community representative was unavailable, there was no provision for proxies. I am not too sure, but I will follow that up.

How the allocation committee allocates its funds is the business of the committee. The other constitutional acts that it has to carry out and how it runs its day-to-day business is no business of government, except when the interests of government are compromised. I think that the member said that the CEO of the community who was going to be the representative was unavailable. I will certainly check whether their constitution allows for the provision of proxies in that event.

I would also be interested in any material that the honourable member has, if a formal complaint has been laid about communities being left out of the allocation committee. It would certainly be disturbing if the allocation committee were not allocating the rightful amounts for programming within particular communities and if it were done on a with-prejudice basis. If the honourable member could encourage the complainant to write to me as minister, or if he has authority to discuss the issue with me, I would be prepared to follow that up.

The Hon. R.D. LAWSON: I have a supplementary question. Is the minister able to inform the council of how much of the $1.5 million being allocated by the allocation committee is, in fact, money provided by the state government?

The Hon. T.G. ROBERTS: My understanding is that the full total is state government funds, on the basis that we are trying to allocate funds across agencies, so that the amounts of funding can be aggregated and worked out by the community on a priority basis in relation to some of the difficulties they have in human services. Some communities

are further advanced and better able to manage than others. There are a number of differences with communities about the impact of, for example, petrol sniffing: some are petrol-sniffing free; others have major problems when there has been aggregation of Anangu from particular outlying areas who find their way into some of the centres. Ernabella, for example, appears to be an aggregating point. Those communities would require larger funding streams for dealing with that issue, but I am using that only as an illustration.

The funding regime that has been set up is designed to get all the Anangu within the 18 communities to draw up their own priorities on how they spend the money. However, the government is certainly interested in working in partnership with respect to health, education, housing and petrol sniffing prevention and treatment programs. We are interested in working in coalition with the Anangu once they have determined how they will prioritise their funding regimes.

OVINE JOHNE'S DISEASE

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

Leave granted.

The Hon. CAROLINE SCHAEFER: It was announced in the *Country Hour* on ABC Radio yesterday that the western division of New South Wales has taken steps towards self-management of the sheep wasting disease ovine Johne's. Over a period of time I have spoken with the minister and his advisers and asked a series of questions in this place aimed at getting the minister and his department to put forward a management scheme that would be nationally accepted. One of the concerns I have raised is the possibility that New South Wales will go down a totally deregulated self-management path leaving, therefore, sheep sales from South Australia almost totally banned into both New South Wales and Western Australia unless they undergo the very expensive testing regime necessary.

To this stage the minister has failed to come up with an acceptable management scheme, either in South Australia or anywhere else. He has consulted and there is consensus, although informal, within South Australia, but it appears that, figuratively speaking, the horse has bolted if New South Wales is going to go down a deregulated path before the method of control is reached on a national basis. This has been my fear all along. My questions to the minister are as follows:

1. What has he done to ensure that South Australia's interests are protected within any national scheme?

2. Has he raised this as a matter for the agendas of ministerial conferences?

3. When can we expect a national scheme to be announced so that breeders within South Australia and those who wish to sell sheep interstate know what they are dealing with?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The current national OJD program is due to expire in June 2004. Obviously, work has been underway, and the honourable member says she has had discussions with myself and officers of the department in relation to the development of it. We are moving towards risk based management where the new scheme will take into account that we have developed a vaccine that will provide some level of protection in relation to OJD. With this new risk based scheme, properties will have trading credits that are appropriate to risk management activity such as testing and vaccination. We would like a system that takes into account the risk of a particular area.

There have been on-going discussions for some time. I believe the matter was raised at a recent ministerial council meeting. There was an item on the agenda at that particular meeting, but discussions are still due to continue for finalisation of that program. I think it is later this year that one would hope there would be some national agreement about it.

The honourable member referred to the item on *Country Hour* yesterday about Far West plans for OJD self-management. I have discussed the matter with the chief veterinary officer who advises me that in South Australia extensive abattoir surveillance of adult sheep from South Australian pastoral areas has shown no evidence of OJD in pastoral sheep in this state. He believes we have no reason to suspect that the disease could be there undiagnosed. He points out that the situation in New South Wales is different as there has been isolated detection of OJD in pastoral sheep there, mainly as a result of the likely presence of the disease in other areas of that state for decades before it arrived in South Australia, and that was in high prevalence in New South Wales for decades before its arrival here, and the more established trade routes to western New South Wales.

OJD in South Australia has been picked up relatively early—at least in the early stages—and is apparently confined to Kangaroo Island. Kangaroo Island has rarely been a source of sheep for the pastoral areas of this state. OJD has also been discovered in isolated areas of the South-East. However, his advice is that we should be confident that the disease is unlikely to be present in those pastoral areas, because Kangaroo Island and the upper South-East have not generally been sources of sheep for the pastoral areas of our state.

He reminds us that there are no guarantees, as everybody knows. There might be isolated cases but, if there are, it is unlikely that they will spread quickly. They will be picked up in surveillance eventually and dealt with quickly. It should also be remembered that nationally we are no longer in a disease exclusion mode except in those areas that are free of the disease, such as Western Australia. The new strategy with OJD will be industry driven with risk based trading, which will involve vendor declarations and assignment of risk scores to proposed sheep movement. Scores will be heavily influenced by the prevalence of disease in the areas of origin which are not necessarily based on state boundaries.

It is also worth commenting in relation to that report on *The Country Hour* that those statements attributed to sheep producers in pastoral New South Wales appear to reflect the level of confusion over the nationally agreed program. Obviously, that is something that the New South Wales Department of Agriculture will have to deal with in relation to informing its clients. In answering the honourable member's question, I acknowledge that we, in South Australia, will obviously have our work to do too, through PIRSA and the South Australian OJD Committee, in ensuring that our communities are fully aware of their obligations and the direction of the national program.

OFFICE OF REGIONAL AFFAIRS

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Regional

Development, a question about the Office of Regional Affairs.

Leave granted.

The Hon. J.S.L. DAWKINS: Recently, the mayor of Port Augusta, Mrs Joy Baluch, was interviewed on ABC Radio 639 in relation to her strong concerns about the review of the Department for Business Manufacturing and Trade, which recommended the significant downgrading of the Office of Regional Affairs. It is pertinent to emphasise to the council that Mrs Baluch's credentials in regional development stretch far wider than her home city. Mrs Baluch is chairman of the Provincial Cities Association, which encouraged the Olsen Liberal government to establish the Regional Development Task Force in 1998. She served on that taskforce, and subsequently on the Regional Development Council, from 1999-2002.

Mrs Baluch currently serves on the Regional Communities Consultative Council, which consists of unremunerated representatives from all regions of the state. She is also chairman of the Upper Spencer Gulf Common Purpose Group. My question is: does the minister agree with Mayor Baluch in her comments on ABC 639 that the proposal to gut the Office of Regional Affairs is 'absolutely ridiculous', and that if implemented the proposal 'will really seriously undermine regional development efforts'?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): The only thing that I can say is that, if we were gutting the Office of Regional Affairs, I would probably have to agree with the honourable member. However, to my knowledge there has been no discussion about—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I have heard it now. I will refer that very important question to the minister and bring back a reply.

IRAQ

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about Iraq.

Leave granted.

The Hon. J. GAZZOLA: As members know, South Australia has particular strengths in the agriculture sector. South Australian products and expertise are recognised and appreciated around the world. Following the recent war, Iraq is going to need significant support to rebuild its agriculture sector, and South Australia would appear to be well placed to assist with this support. Will the minister advise the council what steps the South Australian government is taking to ensure that the valuable Iraq market is captured for the benefit of the local economy and to assist in the reconstruction of agriculture in Iraq?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Recently, I was very pleased, on behalf of the Premier, who was overseas at the time, to welcome a ministerial VIP agricultural delegation from Iraq, which was made up of Mr Naseer Kamel Chadirji, who is a member of the Governing Council of Iraq and Chairman of the National Democratic Party, and also Dr Abdul Amir Al-Abood, the Minister for Agriculture. Mr Chadirji is a farm owner and has a strong interest in agriculture and land management issues. His position on the Governing Council of Iraq gives him significant influence on policy matters.

Dr Al-Abood visited Australia at the invitation of the Australian government to familiarise himself with Australian agricultural policies and techniques. The Iraqi agricultural sector has significant capacity gaps in all aspects of agricultural production, from research and development through to production, agricultural imports, processing, distribution and marketing. The visit has enabled Dr Al-Abood to meet with key Australian policy makers and agricultural producers and to visit a range of agricultural production facilities of world standard, including, of course, the Waite.

It has enabled Australian policy makers to gain an understanding of the priorities in terms of aid and technical assistance to the Iraqi agricultural sector. In addition, Australian agricultural companies have been able to explore potential commercial opportunities with the minister with a view to either exporting to Iraq or long-term strategic engagement in Iraq's agricultural sector. The South Australian government, through both PIRSA and the Department of Business, Manufacturing and Trade, has been working particularly hard to identify South Australian businesses with a capacity to deliver into the new Iraq.

There is a wide range of expertise and technologies on offer, such as capacity building, grain storage systems, engineering resources, education and health services, to mention a few. Just last month a donors conference was held in Madrid to gain pledges of help for the Iraq reconstruction program. South Australia was represented at a private sector conference held simultaneously, and our delegate reported that the representatives from Iraq were dedicated, had clear objectives and an unyielding desire and passion towards building a new Iraq. We understand that Iraq's key focus is on developing a transparent, accountable public sector that will encourage a free market and vibrant private sector aimed at returning Iraq to international competitiveness.

Historically, I am sure that members are aware that the South Australian government has been of help to Iraq with a research demonstration farm at Erbil, and we are keen to help again. The South Australian and Western Australian state governments, through Primary Industries and Resources South Australia and the Department of Agriculture of Western Australia (AGWEST), believe that both states have much to offer Iraq. As a result, we have formed an alliance to better deliver what we can into rebuilding Iraq. The alliance of AGWEST International and PIRSA is the preferred tenderer to AusAID to supply agricultural technical services to the Reconstruction of Agriculture for Iraq (RAFI).

SAGRIC International, with whom we have a close association, has been appointed as the Australian managing contractors of RAFI. The alliance is also supporting SAGRIC alongside the CSIRO, with its recently announced successful tendering for providing agricultural services into Iraq through the USA AID program. Naturally, any support provided will need to take account of security risks and personnel safety. During his visit to South Australia, Dr Al-Abood identified that Iraq's agricultural needs require support to:

- encourage investment in agriculture
- establish dairy farms and processing
- re-establish the fishing industry
- enhance dryland capability
- establish farm machinery assembly/manufacture plants
- develop seed businesses for dryland farming
- increase use of biotech controls on farming
- improve productive use of dryland farming areas through new varieties

- enhance international cooperation between research establishments
- establish 'demonstration farms' using appropriate technology and aid funding

South Australia will continue to work with Western Australia to determine areas in which the two states can assist with the reconstruction of Iraq's agriculture sector and will focus on the key priority areas identified by Dr Al-Abood. We hope that this visit will be the forerunner of a long and fruitful relationship between our governments and our private sectors and that we will be valuable partners in developing the new Iraq.

KALAYA CHILDREN'S CENTRE

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the minister representing the Minister for Education and Children's Services a question about Kalaya Children's Centre.

Leave granted.

The Hon. KATE REYNOLDS: My office has been contacted by parents and carers of children attending Kalaya Children's Centre who are concerned at what they describe as the deteriorating situation at the centre since what appears to be the arbitrary removal of the Aboriginal director. The concerns of the parents and carers relate to the centre's education program, inappropriate disciplinary methods, victimisation of families, use of untrained staff, and inappropriate committee and staff selection processes that appear to favour friends and relatives. My office understands that numerous concerns were raised with the Minister for Education and Children's Services almost three months ago and that a petition with 183 signatures from the local Aboriginal community was presented in the other place, requesting that the Aboriginal director be returned to her position. My questions to the minister are:

1. On what basis was the Aboriginal director transferred to another site, given that no performance or grievance issues were raised and that her current contract does not expire until 2004?

2. Why was the Aboriginal director removed prior to an internal review of the centre being conducted in the middle of this year?

3. Will the minister confirm that the Review by Exception undertaken by DECS staff in June did not suggest or recommend the removal of the Aboriginal director employed at the centre?

4. Why was the position of director of Kalaya Children's Centre advertised in August this year when the incumbent has a contract until January 2004?

5. Can the minister assure the parliament that all the proper processes and requirements have been met in relation to the removal, transfer or appointment of all staff, including acting staff and committee members at the centre since 1 April 2003?

6. Will the minister classify the Kalaya Children's Centre as Aboriginal-identified, to ensure that it can attract culturally appropriate staff and maintain an Aboriginal-focused curriculum and service model? If not, why not?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will seek a response from the Minister for Education and Children's Services.

CHILDREN AT RISK

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the minister representing the Minister for Social Justice a question about children at risk.

Leave granted.

The Hon. A.L. EVANS: On 28 May this year I asked a question concerning a report made by the Noarlunga adolescent and family team of the Department of Family and Youth Services to the review chaired by Robyn Layton QC as part of the government's review of child protection in South Australia. The report stated that known paedophiles target young people under the guardianship of the minister by placing themselves in accommodation near FAYS residential accommodation. A state plan to protect and advance the interests of children was released in March 2003. In a response to the question received on 10 November 2003, the minister advised that the matters reported by the Noarlunga office of FAYS are being examined by the Department of Human Services. My questions to the minister are:

1. Who is examining the matter within the Department of Human Services and at what stage is the examination?

2. Would the minister advise when the examination commenced and when it is anticipated that the report of the examination is to be made available?

3. Will the minister advise whether the examination is being conducted with a view to providing police with authority to act?

4. Given the serious nature of the matter, does the government view a period of eight months to carry out an examination into the matter as acceptable?

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

HENLEY HIGH SCHOOL

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Education and Children's Services, a question about Henley High School.

Leave granted.

The Hon. D.W. RIDGWAY: On 17 July this year, nearly six months ago, I asked a question of the minister about the shameful state of Henley High School. This question is still unanswered. In explaining the question I stated that Henley High School is one of the most important schools in our western suburbs. I also said:

> It is a disgrace that, after 45 years [actually it is 55 years], one of the state's best public schools is still waiting for permanent fixtures to replace temporary classrooms.

In fact, I was understating the problem. I recently had an opportunity to tour this eminent school and I was shocked to see the state of it. I witnessed sloping floors that were so bad that when office staff stand up their castor chairs roll away from the desk. This will be a potential cause for WorkCover claims in future as staff start experiencing back problems from sitting on chairs unevenly placed on sloping floors.

The silence from the member for Colton who, incidentally, is a former scholar and should be representing this important western suburbs school, on the issue of funding this important school has been almost deafening. The Labor Party has ignored its key constituencies and delivered Henley High School a slap in the face by depriving it of the $4.8 million

promised by the former Liberal government. In *The Advertiser* of 6 June 2003 the education minister (Hon. Trish White) was quoted as saying that there are higher priorities than Henley High. My questions are:

1. Will the minister reveal what schools are of higher priority for capital works expenditure than a 55 year old school with buildings with sinking floors that are a potential danger to students and staff?

2. Will the minister advise when the government will reinstate the $4.8 million promised by the former Liberal government?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): It is interesting that—

Members interjecting:

The PRESIDENT: Order! There was quite a bit of opinion in that explanation and I ask the Hon. Mr Ridgway to pay attention to that in future.

The Hon. P. HOLLOWAY: I went to Brighton High School and the first three years of my schooling were also in wooden prefabricated buildings. A lot is said about Sir Thomas Playford and his is a name often revered in this state. However, funding of education was not one of Tom Playford's top priorities. Those of us who went to school in those days can well remember those wooden prefabricated buildings, which were part of nearly every high school. There was an enormous backlog of education building when the Dunstan government came to power and there was significant investment under Hugh Hudson as minister for education in the 1960s, but in spite of that massive investment over some 20 or 30 years, particularly with the high growth of schools during that post-war era—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, the Liberal government was responsible for the previous eight years. What has it done about some of these schools? I was in a class at Brighton High School for chemistry in leaving and there were 51 students in it—that was the sort of education—

Members interjecting:

The Hon. P. HOLLOWAY: That is what happened to my chemistry. That is why I am here and am not a chemist. I may be a good advocate for better government in South Australia—it did not teach me a lot about chemistry. As far as Henley High is concerned, I will refer the question to the Minister for Education and Children's Services and bring back a reply.

The Hon. D.W. Ridgway: Are the temporary classrooms still at Brighton High with sinking floors?

The Hon. P. HOLLOWAY: There are these wooden buildings and with the massive population explosion we had in the post-war era that was the entire investment in education for 15 to 20 years. That was the entire capital investment. When the Dunstan government first came to power, there was a massive increase in education spending when Hugh Hudson was the education minister during the 1970s. Similarly, this government has given education a higher priority but, given that there are some 800 schools in the state with such a lengthy backlog, it is not possible to address all the problems. But education remains a high priority of this government—it is certainly much higher than it was under the previous government.

The PRESIDENT: Order! There is far too much audible interjection in the council today. Members should remember that some of the best people in South Australia were educated in Loveday huts—not all of them made their way here.

YOUNG ACHIEVER AWARDS

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the 2004 Young Achiever Awards.

Leave granted.

The Hon. G.E. GAGO: I understand that nominations have now opened for the 2004 South Australian Young Achiever Awards. These awards recognise important contributions in a wide range of different areas that young South Australians have made. Will the minister report on these awards and what is he doing to promote them?

An honourable member interjecting:

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I am doing a bit now. In relation to promotion, I hope the media present would take note of the reply because the Young Achiever Awards have opened. The awards are aimed to encourage, promote and reward the positive achievements of South Australians aged between 14 and 26. The awards feature seven categories with a winner in each category to receive $1 000 from the Australian Central Credit Union. One young person will be chosen as the Young Achiever of the Year, which carries an extra $1 000 in prize money, plus a holiday. Categories include:

- Coffee Clubs Arts Award
- OneSteel Sports Award
- Department of Human Services Community Service Award.
- Boileau Business Solutions Career Achievement Award
- AGL Regional Initiative Award
- University of Adelaide Faculty of Sciences Science and Technology Award
- Golden Circle Environmental Award

My office at present is encouraging young indigenous South Australians to make application for the awards, because in the main it is those who could probably achieve or get the best results from them who are either not encouraged to apply or know nothing about the awards. My pitch at the moment is to try to give as much publicity as possible to the 2004 Young Achiever Awards. I hope that young indigenous artists, health workers, athletes, scientists and those in other careers seek some recognition and some financial support to continue or to start education programs that, hopefully, will benefit them, their communities and the state of South Australia over time.

CRIME PREVENTION PROGRAMS

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Police, a question about crime prevention programs.

Leave granted.

The Hon. T.J. STEPHENS: In response to a question I asked recently regarding crime prevention programs, the Leader of the Government in the council said:

> When we went through the process, the programs the honourable member referred to [crime prevention programs] were looked at and assessed as not being as effective as other measures.

I asked a question last year regarding these programs. The Minister for Correctional Services in relation to these programs said that they were 'major successes'. My questions are:

1. When did the government change its assessment of crime prevention programs?

2. What have been the more effective measures of which the minister speaks?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The Attorney-General has responsibility for crime prevention programs. I may have been Attorney-General at the time the honourable member asked the question, but I am not sure.

Members interjecting:

The Hon. P. HOLLOWAY: It depends what he asked me. I said that when they were assessed at the budget, it was considered they were less valuable. One of the issues that the government faced in relation to—

Members interjecting:

The Hon. P. HOLLOWAY: The crime prevention programs were assessed at the time of the budget. One of the areas to which the government had to give priority was the Director of Public Prosecutions office, and indeed in recent days the government has announced further additional funding to that office.

An honourable member interjecting:

The Hon. P. HOLLOWAY: It is four more, and that is on top of $1 million extra over four years in the previous year.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes, and another $1 million in the 2001-02 budget. So, there has been quite a significant increase in the budget. Obviously, to fund those additional resources, something had to give. During this budget consideration by my colleague, that was considered to be the higher priority. As the Attorney-General has responsibility for that—and he took the original decision—if he wishes to add to my answer, I will provide that to the honourable member.

The Hon. T.J. STEPHENS: I have a supplementary question. What are the more effective programs you spoke of?

The Hon. P. HOLLOWAY: I was talking about the funding within the department for which I gave the example. For a start, we have to have a properly funded DPP. If we are not prosecuting people who commit crimes—

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: Of course it does. The fact is that deterrence is part of any proper law and order scheme. As I have said, it is the Attorney-General who has responsibility for those matters, so I will ask the Attorney-General whether he wants to add any further information.

BARLEY, SINGLE DESK MARKETING

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Agriculture, Food and Fisheries a question relating to the single desk marketing of barley.

Leave granted.

The Hon. IAN GILFILLAN: In today's *Stock Journal*, there is a large two-page article titled 'Barley single desk fights to survive', and the opening paragraph states:

> South Australia's barley export single desk would effectively be demolished if the state government enforces a model like Western Australia's Grain Licensing Authority [GLA].

The GLA has licensed the export of 188 000 tonnes of barley to Saudi Arabia. Theoretically, in Western Australia, GrainPool (which is the single desk marketing authority in Western Australia) should be consulted before there is any export of barley. However, the GLA did not consult with GrainPool when considering an application for export into this particular market. The excuse was that it did not consult GrainPool because the GLA did not consider the Middle East to be a premium market. When asked what the GLA did consider a premium market, Mr Johns said, 'There was no concrete list.' The Chairman of ABB, Mr Trevor Day, is quoted in the article as follows:

> Why does ABB Grain Ltd hold such strong views about single desk export marketing. . .

He goes on to say:

> Because we see there are companies wanting to change to single desk for their own commercial advantage, at grower cost. And because we see there is a political agenda at work that has nothing to do with grower benefit, but everything to do with National Competition Policy.

Mr Day also refers to the minister in the following paragraph:

> At the political level, Agriculture Minister Paul Holloway has made it very clear publicly that the legislative agenda is being driven by pressure from the National Competition Council, not by what is best for barley growers. He has quite correctly pointed out that growers need to pressure their Federal MPs.

A final, very telling paragraph from this article states:

> South Australia's Farmers Federation is challenging the state government to assure growers it will not implement a model like the GLA. Agriculture Minister, Paul Holloway, has not yet provided any clear indication of what the government plans to do but has said they will look at all options and that the WA model was an example of what might be adopted.

My questions to the minister are:

1. Is the assumption correct that this agenda is being driven by the National Competition Council?

2. Does the government still hold the adoption of the Western Australian scheme as a likely program to be introduced into South Australia?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I answered a similar question not long ago (I am not sure whether it was from the honourable member, or from the shadow minister), and I covered those matters at that time.

The honourable member's first question was whether this was being driven by the National Competition Council. As I pointed out then, the review that was undertaken by the government was required under changes to the Barley Marketing Act. Those changes were introduced into the act in, I think, November 2000 and required a review two years after that date. They were inserted as a consequence of pressure that the previous government was under from the NCC, and I can say that that pressure, if we can call it that, has not stopped.

As I indicated in the answer last week, at this stage we are still awaiting the final outcome of the competition review in relation to that report. As I have indicated publicly, I think that it would be wise to at least wait until the outcome of that commonwealth response to national competition policy assessments of the actions taken by the state government in relation to the Barley Marketing Act before we proceed further.

However, as to any changes, obviously the recommendation of the select committee report was that we look at the Western Australian changes as a model, and we are doing so. I intend to meet with Mr Mann, who is the chair of that grain licensing body, in the fairly near future. I want to hear his version about what is happening because, certainly from the earlier briefings that I had on the way that this body was

supposed to operate in Western Australia, it would appear to be somewhat different from the impression given by many press reports. I also intend to meet with officers from the Australian Barley Board to hear their side of the story.

The bottom line is that the barley single desk in South Australia remains as part of the Barley Marketing Act. It can be removed or changed only by changes to the legislation in this parliament. So, it would have to pass both houses of this parliament before any changes to the single desk could be made.

I have certain obligations to the government under competition policy, or the state may face a penalty. We will have to address those issues at the appropriate time. In addition, I do not wish to take any action that would obviously damage successful marketing arrangements in this state. On the other hand, I think that there is agreement amongst many, if not most, grain growers that, whilst most believe that the single desk should remain, they also believe that its operation should be transparent and accountable. I think that there is acceptance that there needs to be at least some move in that direction to make the operation of the single desk more accountable.

It is worth remembering that the ABB is no longer a statutory authority. It is no longer a publicly-owned body: it is a private company that has private shareholders and that obviously, philosophically, changes the fact that, under state law, it possesses monopoly marketing powers. It is a private company with state-designated monopoly marketing powers, which changes the dynamics of the equation somewhat. We have to move in at least some direction to ensure that there is greater accountability.

However, in relation to the Western Australian model, I can only reiterate what I have said on previous occasions, namely, that it is just that—a model. We are not necessarily wedded to that. I will be taking action to obtain my own assessment in relation to how that measure is working. At this stage, the government is looking at seeking a more accountable single desk operation, but whether that is the Western Australian model or something else is for this parliament ultimately to determine.

The Hon. IAN GILFILLAN: I have a supplementary question. Will the minister give a clear, unequivocal answer: does he believe that the National Competition Council is, in effect, pressuring the government to take a particular model for the marketing of barley in South Australia?

The Hon. P. HOLLOWAY: The national competition policy has made it quite clear from day one (and this was during the last four or five years of the previous government) that all legislation, including the Barley Marketing Act, has to pass the public interest test.

That is a fairly restrictive test about which we could have a debate. I have reservations about that test, as I am sure do other members. Nonetheless, that is the law and it has been applied by consecutive federal governments. If we do not comply with it, this state may suffer financial penalties. That is a fact of life. That is just one of the factors that have to be considered. At this stage we are simply awaiting the final outcome. We have made our view known to the National Competition Council. Ultimately, it is up to the federal government and the federal Treasurer to determine their responses. That is why Mr Trevor Day's comments, which the honourable member referred to about writing to federal MPs, is a suggestion that I would certainly welcome.

GAMBLING REPORTS

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Gambling, questions about the administration of the Gaming Machines Act and the Casino Act as referred to in the reports of the Office of the Liquor and Gambling Commissioner and the Independent Gambling Authority.

Leave granted.

The Hon. NICK XENOPHON: Page seven of the commissioner's report refers to two licensees who were found, following a review of EFTPOS and ATM facilities and withdrawals at gaming venues and the restrictions on those withdrawals, to have allowed withdrawals above the approved limit on more than one occasion. An assurance was sought from both licensees that the breach would not be repeated. Further, page 53 of the Independent Gambling Authority report refers to the security department at the Adelaide casino which refused entry to 4 417 juveniles and suspected persons who were unable to provide suitable proof of being over 18 years of age. It referred to two reported instances of minors being detected on casino premises with the commissioner asking the casino to provide full details of the incidents. The report also referred to the commissioner reviewing Sky City's procedures in the area of juvenile barring. My questions to the minister are:

1. In relation to the breaches of the ATM and EFTPOS withdrawal limits, how extensive was the review and what resources were used? What was the extent of the breaches and were the funds withdrawn related to gambling expenditure at the venues? Why was disciplinary action not taken? What are the policy guidelines for taking disciplinary action?

2. In relation to juveniles at the casino, what steps does the casino take following the refusal of entry to a minor? What is the extent of the review of the commissioner's procedures referred to on page 53 of the IGA report? When will that report be made available?

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.

WORKCOVER

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question about the WorkCover CEO search.

Leave granted.

The Hon. A.J. REDFORD: Earlier this week the former chair of WorkCover gave evidence to the Occupational Health and Safety Rehabilitation and Compensation Committee regarding the appointment of a CEO to WorkCover this year, as well as other matters. I understand that Speakman & Associates were chosen. They went through a process of advertising and interviewing. According to Mr Gunner, the minister made certain statements in the media, and in particular in *The Australian* of 22 March 2003. In that respect the article states:

> Mr Wright said that the new board's first task would be to find the best person for the job.

Not unnaturally, nor unexpectedly, Speakman & Associates resigned, derailing the process. I understand that the minister claimed at the time that he was misquoted and did not, in fact, say what Mr Terry Plane put in *The Advertiser*. This was

following the release issued by Mr Wright, on 21 March, and radio interviews where he variously described the board as 'flawed', 'unacceptable', 'dumb' etc. He even accused the former government of politically interfering with the board's decisions concerning the rebate and the levy reduction—a fact strongly denied by Mr Gunner. Obviously, it will be important to determine what caused the resignation. In the light of that, my questions are:

1. How much did Speakman & Associates receive for the aborted search for a CEO for WorkCover?

2. Was the minister verballed by *The Australian*?

3. If he was, have any steps been taken to recover the costs of the aborted search from *The Australian*? If not, why not?

4. Has the minister received an apology from *The Australian*?

5. If the minister was correctly quoted, which I suspect is the case, will he personally pay the costs of Speakman and Associates?

6. Will the minister give evidence to the committee?

7. Can I have an answer before Christmas?

An honourable member: Which year?

The Hon. A.J. Redford: This year.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his important questions, and his final tongue-in-cheek question. I will refer them to the minister in another place and bring back a reply.

The PRESIDENT: On that question, the Hon. Mr Redford, you were talking about something which could be deemed to be ancillary to the evidence being presented to a standing committee. It is not normally the practice—it is in fact contrary to standing orders—to talk about evidence before a standing committee, either in a question or in debate. You may have been talking about the actual advertisement and its costs—which is the way I took it. I would ask all honourable members to be particularly careful, when addressing either questions or debate, about evidence before standing committees. There are more standing committees now, so you need to be more vigilant.

CRIME, VIOLENT

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Police, a question about increases in violent crimes.

Leave granted.

The Hon. J.F. STEFANI: I refer to an article in *The Sunday Mail* of 9 November 2003 which reported that, in South Australia, the number of violent crimes such as robberies, sexual offences, assaults and attempted murders has soared during the past year. Figures obtained from South Australia Police by *The Sunday Mail* show that there has been an explosion in attempted murder cases, which are up by 73 per cent, while crimes such as rape and attempted rape and other sexual offences have also increased. Robberies involving firearms and other weapons have increased by more than 10 per cent. Unfortunately, there has also been an increase in driving offences causing death, which were up by 5.9 per cent from last year. Shop thefts have also skyrocketed to more than 10 760 offences—up by 16 per cent from last year. Given the tough stance taken on law and order by the Labor government, my questions are:

1. Will the minister advise what strategies the government will implement to curb the incidence of violent crime in our community?

2. Will the minister give an unequivocal undertaking that the extra funding, which he has announced to increase police resources, will come from the proceeds of all speeding fines as promised in the Premier's 'my pledge to you' card without reducing any budget funding in other areas as indicated by him in the media?

3. Will the minister investigate ways to increase driver safety training for young drivers, such as the advanced training courses provided by Honda, and supported by the Victorian government, in an effort to reduce the incidence of road fatalities and injuries to improve road safety?

4. Will the minister confirm the total amount which the Rann Labor government allocated in the 2002-03 financial year to police and road safety from the proceeds of all speeding fines as promised in the 'my pledge to you' card?

5. Will the minister and Treasurer confirm the total amount collected from all speeding fines for the year 2002-03?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those questions to the Minister for Police and bring back a response. I did read the article in *The Sunday Mail*, and I did notice that, whereas in some categories of crime the reported incidence of crime had increased, other statistics, if I recall correctly, such as those for illegal use or larceny of a motor vehicle, had fallen. Also, the number of serious assaults appeared to have fallen even though the number of other more minor assaults had increased. Like all statistics, one needs to consider them carefully, but I will get a considered response from the Minister for Police.

CROWN LANDS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 571.)

The Hon. CAROLINE SCHAEFER: Prior to the luncheon adjournment, I outlined 13 principles of the Liberal Party with regard to this bill; and members would be aware that many of those have, in fact, been met by consensus as a result of the findings of the select committee. I hasten to add, however, that, although the government has continued to say that the decisions of the select committee were unanimous, a number of the resolutions were not unanimous. I understand that the standing orders in the House of Assembly are such that, since the select committee was held on a bill as opposed to having been moved on a subject, there is no provision for a minority report.

Those who would therefore have normally objected and put in a minority report were able only to have noted that there was disagreement on a number of the resolutions. It needs to be made clear in this place that the decisions and recommendations of that select committee were an absolute majority, probably, but they were by no means unanimous at that time. As a result of the debate in another place, the most contentious issue, that is, the setting of a minimum service fee of $300 per title per annum, was defeated in another

place. However, the minister at that time said that he expected that the final solution would be reached in a meeting of the two houses.

I await with interest to see whether there is an attempt in this place to reintroduce the $300 service fee. The Liberal Party will be pressing ahead with a number of amendments which failed in another place, including the requirement to inform lessees of any changes to their situation as a result of changes to this legislation; the ability to pay 20 years in advance, as I outlined previously; no compulsory freeholding at change of ownership; and sliding scale freeholding charges. I express my extreme disappointment at the way in which this particular legislation has been so arrogantly handled.

I believe that the people of South Australia, and particularly those who hold crown lease perpetual land, have been treated with absolute disdain by this government. We were first told that there would be, as I have said, a discount to $2 000 per lease from the proposed $6 000 per lease, even though, previously, the charge was $1 500 per lease. It is the only time I have known of a discount that is in fact $500 more expensive than the original price.

As well as that, debate in this legislation, even after the final report of the select committee, was delayed until after the 30 September deadline. The result of that to land-holders was that they had to register to freehold at $2 000 or run the risk of being forced to freehold at a later date at $6 000 per title. It is the first time that I remember people being forced into making a business decision when they do not have an outline of the actual legislation to which they are reacting. I can only say that I am very disappointed with the way the government has handled this matter. I believe that it has been ignorant. It has ended up being unjust and, to put it mildly, sly, is the only word I can think of.

It has been sly. It has made people register for freeholding by default simply because they are forced into making decisions before we have had the opportunity to debate the legislation in this place. We will be pressing ahead with our amendments in an effort to make this legislation as fair as it can be. We hope that the government will recognise that it has simply botched this legislation and let us get on with trying to retrieve some sort of normality from it.

The Hon. IAN GILFILLAN secured the adjournment of the debate.

SURVEY (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. T.G. ROBERTS: I move:

That the amendment be agreed to.

The information given to me is that, if the amendment is not agreed to, there will be some considerable confusion over the differences between the existing survey lines and the fences in a lot of confused boundary surveys that exist. There will be added costs to those who have to get their boundaries resurveyed and I am told, by description and diagram, that some boundaries run through houses that will consequently have to be resurveyed and fence lines shifted, unless there is general agreement on keeping them in place. I am sure that information has been relayed to other members through the discussion stages and I hope members opposite will accept our position in trying to save the bill from becoming legislation that will add to the confusion rather than making it a little more simple.

The Hon. CAROLINE SCHAEFER: The opposition does not accept that explanation because we objected purely to an amendment to the current practice. Both the Hon. Ian Gilfillan and I, when asking a question during briefings, were assured that these conflicts arise only very occasionally and I think only one occasion was cited where compensation was granted by the Supreme Court in something like a 30-year time span. By objecting to this amendment by the government to the current practice I understand that we are simply saying that, on the very rare occasion where there is a dispute after the issue has gone to the Supreme Court (which in itself is very rare), and on the rare occasion where someone has lost land, there is the very rare chance that they may be granted compensation by the government of the day. I have been around South Australia for a very long time—

The Hon. Ian Gilfillan: Not as long as I have!

The Hon. CAROLINE SCHAEFER: As the Hon. Ian Gilfillan says, not for as long as he has. I certainly have no knowledge of a boundary dispute going through someone's house and costing a lot of money. If that were to occur, surely that would be the very time when some sort of compensation should be made payable if that were the case. I was given a briefing and assured at that time that in over 90 per cent of cases consensus is reached by the two parties involved.

The Hon. IAN GILFILLAN: Although my colleague the Hon. Caroline Schaefer has not had any extended length of time to survey the situation in South Australia, she is a quick learner. In a few brief years she has acquired a lot of knowledge. Just to confirm my opinion, which is based on the old Australian saying 'a fair go', why should there not be the capacity for compensation? I do not intend to repeat the argument put forward by the Hon. Caroline Schaefer. I think it was an adequately well-put position. The wording may be a bit confused, so I had better make it plain. I make it plain that we believe that the principle of compensation should be retained and we will be supporting that.

The Hon. A.L. EVANS: Family First believes that principle, that is, compensation, should be paid when there have been survey errors. We also support it.

The Hon. T.G. ROBERTS: I will have one more shot at trying to persuade members to be more reasonable about the application of the legislation. The information given to me is perfectly sound and reasonable. There have not been a lot of cases taken to court, but a precedent was set some 12 months ago in the Supreme Court that may accelerate a process that perhaps did not exist before that landmark decision. The information given to me is that the government's position was put together legislatively from information provided by the Surveyor-General, who has had 30 years of experience in dealing with these matters. The recommendations he made were picked up by the bill.

The other point that has been made, in order to try to sway members at this late point, is that, if the negotiating stages of conciliation are available for neighbours to negotiate, it will avoid costly court cases. The bill is not proposed or designed to have people rushing off to courts for compensatory packages but, rather, to discuss the issues between themselves. Where there are no agreements, perhaps the courts will decide or a conciliatory approach will be made by bringing in someone who can mediate. It appears that the numbers are against us. Commonsense has lost the argument and the debate of the day. It will be an added cost to land owners whereas government would have picked up the bill.

When people read *Hansard*, they will know exactly who to blame.

The committee divided on the motion:

AYES (6)

Gago, G. E.	Gazzola, J.
Holloway, P.	Roberts, T. G. (teller)
Sneath, R. K.	Zollo, C.

NOES (14)

Dawkins, J. S. L.	Evans, A. L.
Gilfillan, I.	Kanck, S. M.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.
Reynolds, K.	Ridgway, D. W.
Schaefer, C. V. (teller)	Stefani, J. F.
Stephens, T. J.	Xenophon, N.

Majority of 8 for the noes.

Motion thus negatived.

The following reason for disagreement was adopted:

Because it has potential to add personal cost to the consumer.

AUTHORISED BETTING OPERATIONS (LICENCE AND PERMIT CONDITIONS) AMENDMENT BILL

In committee.

Clauses, schedule and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

STATUTES AMENDMENT (INVESTIGATION AND REGULATION OF GAMBLING LICENSEES) BILL

Adjourned debate on second reading.

(Continued from 11 November. Page 518.)

The Hon. A.L. EVANS: Family First supports this bill, which will operate to shift various costs from the taxpayer to the licensees of the TAB and the casino. It is entirely appropriate that these expenses not be carried by the taxpayer. The bill ensures that by providing for the costs of supervising the casino and the TAB to be recovered from the respective major gambling licensees.

The bill also enables the Independent Gambling Authority to recover from the licensees the cost of reviews. I noted with interest the comments made by the Hon. Angus Redford in his contribution concerning the lack of checks and balances. I agree that there are areas of concern and I will be interested in the government's response to them.

In the minister's second reading explanation, we were told that the government had received advice that the measures contained in the bill do not constitute a compensatory event and, therefore, compensation will not be payable to the licensees if these bills are passed. We are told that one of the compensatory events is an increase in taxation.

I would like the government to provide me with an assurance that litigation will not result as a consequence of this bill. Has the government received any correspondence from the TAB and casino licensees objecting to this bill, or indicating an intention to pursue the government if this bill is passed? In particular, have the TAB or casino licensees suggested that these bills could constitute compensatory events? I believe these are crucial issues. Provided that I am satisfied with the minister's response, Family First will support the second reading of the bill.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank honourable members for their contribution and support for this bill. First, I indicate for the benefit of members that I understand that there have been some discussions with respect to potential amendments to the bill to provide for approval of costs to be recovered from the TAB and the casino prior to their being settled with the licensees. This matter was raised in the second reading contribution by some members, particularly the Hon. Angus Redford.

The government maintains the view that it expects that the authority and the commissioner will continue to regulate in an efficient and prudent manner. It remains important that the licensees be subject to appropriate high levels of scrutiny. It may be that further discussions are required prior to the final passage of this bill.

In response to other questions raised by the Hon. Angus Redford during his contribution, I can advise as follows. We have not had any opportunity to research the position in all other jurisdictions with respect to the costs recovery process. However, I am advised that in Victoria costs are recovered from licensees for some gambling products, and the costs are determined by the regulator and approved by the minister.

With respect to the consistency between section 13(3) of the Independent Gambling Authority Act 1995 and proposed section 26 of the Authorised Betting Operations Act 2000, I have been advised that section 13 of the Independent Gambling Authority Act is a general provision enabling inquiries to be instituted for any purpose. This is used for general inquiries and public processes are required. The outcome of those inquiries are tabled in parliament, unless the authority recommends otherwise.

Investigations that will be undertaken by the authority under proposed section 26 of the Authorised Betting Operations Act 2000 are probity and suitability inquiries. These are sensitive and commercially confidential matters, and this information is appropriately not provided to the minister or to any other party. It is only the results of the investigation that are required to be advised to the parties. These provisions have different purposes and are not considered inconsistent.

As to the comments by the racing industry on the potential of delegation by the IGA of appropriate functions to racing stewards, I can inform members that, as an outcome of the recently completed review of the Authorised Betting Operations Act, the government has approved to amend this act to provide the Independent Gambling Authority, at its absolute discretion, the power to confer discretions under the rules to other persons. This will provide for situations suggested by the honourable member, when it would be more appropriate that determinations be made by a steward or a race club official. Amendments for that purpose will be developed in consultation with the racing industry and introduced next year.

With respect to the comments by the Hon. Nick Xenophon regarding the extent of the probity investigations, the authority's powers are broad and it will determine the extent of the probity investigation required to satisfy itself of the suitability of a licensee, or a proposed licensee. These inquiries will typically include an investigation into the suitability of persons and close associates of the licensee, as well as the commercial and financial position of the licensee.

The Hon. Nick Xenophon also sought confirmation that the broad provision to be inserted into section 22 of the Casino Act, which provides for information flows between the authority and the Commissioner of Police, will also apply

in relation to the operation of the TAB. I can confirm for the Hon. Nick Xenophon that this provision is already in the Authorised Betting Operations Act.

As to the free flow of information between the Commissioner of Police and the appropriate authorities that monitor the suitability of the licensees themselves and those who work for the licensees of gaming machine venues, I can also inform the Hon. Nick Xenophon that licensing in respect of gaming machines in hotels and clubs is a matter for the Liquor and Gambling Commission. Any person who applies for a licence or approval as a person at a gaming machine venue is already required to undergo stringent probity investigations, including an investigation of the person's known associates.

The Commissioner of Police is furnished with all such applications and provides a report to the Liquor and Gambling Commissioner as to the person's suitability. These persons remain listed as persons of interest to the police at any other subsequent police activities associated with those persons is automatically reported to the Liquor and Gambling Commissioner. That provides for the commissioner to remain fully informed and to use his discretionary powers under the act to take any action required in relation to those persons.

I understand that some honourable members may also be concerned about the impact on the exclusivity commitments and thus the compensation issues in relation to this initiative. As indicated in the second reading explanation, the government has received legal advice that the proposed provisions do not breach those commitments. This measure relates to the recovery of specific regulatory costs, not additional duties associated with the revenue of the licensees. The TAB raised initial concerns on this matter, but has not done so again following further correspondence clarifying this point. I again thank honourable numbers for their support for this bill.

Bill read a second time.

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

That it be an instruction to the committee of the whole council on the bill that it have power to consider a new clause in relation to the Independent Gambling Authority.

Motion carried.

EDUCATION (MATERIALS AND SERVICES CHARGES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 November. Page 554.)

The Hon. A.L. EVANS: This bill continues a scheme put in place by the former government in 2000, by collecting a charge for materials and services. A sunset clause was included in the legislation. The government extended the sunset clause to 1 December 2003 under the Education (Charges) Amendment Bill 2002. The bill before us removes the sunset clause altogether.

Under the bill, school councils may recover from parents $166 for primary school students and $223 for secondary school students. In addition, if a parent agrees to pay for non-essential services or materials, they must do so, and this amount is recoverable as a debt due to the school council. The head of the school can agree to allow the parent to pay by way of instalments, or reduce the charge.

Family First does not believe that any child should miss out on quality education because the parent is not able to pay the fees. I am satisfied that this bill has addressed my concerns. New section 106A(9) provides:

A student is not to be refused materials or services considered necessary for curricular activities that form part of the core of activities in which students are required to participate by reason of non-payment of a materials and services charge.

I am grateful for the input of the South Australian Association of School Parents Club. The association is one of the few organisations that is categorically opposed to the imposition of any fees. I respect its position, although I do not entirely agree with it. The association's fax reads:

SAASPC believes that it is the absolute responsibility of governments to finance completely a free, universal and public system of education of the highest standard which will ensure that all students, irrespective of age, race, culture, religion, gender, socioeconomic status, intellectual capacity, physical ability and geographic occasion will reach their full potential.

Whilst I agree that children should be given every opportunity to reach their potential, I do not agree with the proposition that it should be entirely up to governments to finance their education. It may be a healthy thing to expect parents to make what is a relatively small contribution to their children's education. I believe that parents take ownership of their children's education when they have to make a financial investment in it. The bill endorses a system of charges that have been placed since the 1960s. It does not exclude any child because of non-payment and it gives parents a sense of ownership of their child's education. On these grounds, my party supports the second reading.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

SITTINGS AND BUSINESS

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

That the council at its rising adjourn until Monday 24 November at 2.15 p.m.

Motion carried.

ADJOURNMENT

At 4.13 p.m. the council adjourned until Monday 24 November at 2.15 p.m.