LEGISLATIVE COUNCIL

Wednesday 3 December 2003

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I bring up the 9th report of the committee.

Report received and read.

The Hon. J. GAZZOLA: I bring up the 10th report of the committee.

Report received.

PAPERS TABLED

The following papers were laid on the table:

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

Reports, 2002-03—
- Balaklava and Riverton Districts Health Service Inc
- Bio Innovation SA
- Coober Pedy Hospital and Health Services Inc
- Eyre Regional Health Service
- Flinders Medical Centre
- Flinders Medical Centre—Financial and Statistical
- Meningie and Districts Memorial Hospital and Health Services Inc
- Northern Metropolitan Community Health Service
- Quorn Health Services Inc
- Riverland Health Authority Inc
- South East Regional Health Service Inc. (Incorporating South East Regional Community Health Service)

The University of Adelaide—Report, 2002.

BUSINESS, MANUFACTURING AND TRADE DEPARTMENT

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement made today by the Hon. Rory McEwen regarding government decisions on the review of the Department for Business, Manufacturing and Trade.

SOUTH AUSTRALIA WORKS

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement made today by the Hon. Jane Lomax-Smith regarding South Australia Works.

QUESTION TIME

BUSINESS, MANUFACTURING AND TRADE DEPARTMENT

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the minister representing the Minister for Industry, Trade and Regional Development a question about a new Department for Economic Trade and Development (DETD).

Leave granted.

The Hon. R.I. LUCAS: The minister has just tabled a ministerial statement—and a press release was issued yesterday—in relation to the review of the Department for Business, Manufacturing and Trade. Mr President, you would be aware that the old department of industry and trade suffered much turmoil in the last 12 to 15 months while awaiting decisions by this and previous ministers in relation to the department's future structure, leadership and operations.

In September 2002, the old department of industry and trade was abolished and the Office of Economic Development was formed. Three months later, in December, the Office of Economic Development was split into two: the Department for Business, Manufacturing and Trade; and the Office of Economic Development. Then, within 12 months, the Department for Business, Manufacturing and Trade and the Office of Economic Development were merged and now a single Department of Trade and Economic Development has been formed. We have gone from DIT to OED and DBMT and now DBMT and OED becoming DTED—the Department of Trade and Economic Development. One cynic has indicated that this is a clear indication of the government's decisiveness in economic strategy and decision making.

I would not be allowed to comment in relation to the accuracy or otherwise of that cynic's comment. The ministerial statement today, and the press release yesterday, gives precious little indication as to the detail of what recommendations of the review have been approved and what recommendations have not. There are some broad indicators but, when one looks at the review, a number of specific recommendations were made and, to this point in time, there is no indication as to whether or not the minister and the government have made up their minds. However, if they have made up their minds, there is no indication of what exactly their decision might be.

The Hon. A.J. Redford: That could be under review.

The Hon. R.I. LUCAS: That is the worry. My colleague the Hon. Angus Redford says that it might be under review and I think that is the concern for many who have to work in and with this department (DETED). There are a range of recommendations—I will not go through them—but, for example, it is recommended that the Office of the Small Business Advocate be collocated with the Office of the South Australian Ombudsman; the closure of most of the overseas trade offices—a question that I raised earlier this week as to specifically what is the government's response and what transitional arrangements will be put into place; and specific recommendations in relation to the old Industry and Investment Attraction Fund that have been made together with the recommendation that there be a further review of the operation and effectiveness of the Regional Development Infrastructure Fund during 2005. As I said, a range of other recommendations have not been addressed in the ministerial statement or the press release yesterday. My questions are:

1. Will the minister, on behalf of the government, before the council rises this week, give a detailed response to each of the recommendations that have been outlined in the review of the Department of Business, Manufacturing and Trade and, in particular, indicate which recommendations the minister and the government have not agreed with or are not going to implement in any way, shape or form?

2. Given that next year will be an even year, will the minister be seeking to split the new merged department into two, because that seems to be what occurs in even years?

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.

The Hon. A.J. REDFORD: I have a supplementary question. How many more restructures do you think we will have before the next election?

EQUAL OPPORTUNITY COMMISSION

The Hon. R.D. LAWSON: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Attorney-General, questions about the Equal Opportunity Commission.

Leave granted.

The Hon. R.D. LAWSON: The annual report for the year ending 30 June 2003 of the South Australian Equal Opportunity Commission was tabled in parliament earlier this week. It contains information on a number of subjects including the nature of complaints received by the commission. The report notes that 70 per cent of all inquiries relate to employment. The majority of those relate to industrial issues (approximately 24 per cent) and workplace bullying (approximately 21 per cent).

The report also notes that during the year under review the tribunal dealt with four matters, resulting in a number of those issues being dismissed. One person was awarded $750 compensation, but there do not appear to have been many hearing dates. There is also a report that the tribunal granted seven exemptions during the year. Four of those were granted to the Salvation Army community services and one related to an application heard on 1 April 2003, when the Salvation Army community services had to apply for an exemption to recruit an indigenous person for a traineeship in Port Augusta. Another one, heard on the same day, related to the same organisation having to apply for an exemption to employ women in a domestic violence shelter, the occupants of which were women and children only. My questions to the Attorney are:

1. Of complaints received about employment, what proportion related to matters over which the Equal Opportunity Commission has no jurisdiction?

2. What steps are being taken to avoid duplication? In particular, what action is being taken to minimise the frustration which people experience when they take complaints and make inquiries to the Equal Opportunity Commission, only to be directed elsewhere, for example, to Workplace Services or WorkCover Corporation?

3. What was the total number of hearing hours during which the tribunal sat in the year under review? What was the cost of maintaining the tribunal during that period? How many matters are currently being considered by the tribunal?

4. Will the government examine whether a less formal process for granting exemptions could be adopted, in particular, a process under which exemptions would be granted administratively by the commission, rather than after a formal hearing of the tribunal?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will take the questions on notice and bring back a response.

PIRSA CUSTOMER SERVICE

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

Leave granted.

The Hon. CAROLINE SCHAEFER: Currently, a ground water information service and, I believe, a testing service are provided through PIRSA's customer service section. This service provides people in the community with information about ground water and it is used by primary producers in assessing where to put new bores for irrigation and stock watering purposes. It is also used for environmental monitoring and quality assessment of water. Data has been compiled since water drilling commenced in South Australia. It is now a requirement of all drilling licences to supply a schedule 8 at the completion of all works.

The resulting data and schedule 8 are then made available to the general public and contractors to plan and assist in drilling for water. There have been persistent rumours—I believe I asked a question possibly last year about the budget line on this—about the possibility of this service being scrapped. This would create a huge financial burden on primary producers wishing to drill or expand their farming enterprises as test bores would have to be dug on each occasion, before a permanent bore could be established. Will the minister commit to retaining the ground water information service?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Prior to this government coming to office, the ground water information service, along with ground water functions generally, was transferred to the former department of water resources. Following the change in departments, these functions are now the responsibility of the Department of Water, Land and Biodiversity Conservation.

At the time of the original transfer, the PIRSA customer service section was located on the ground floor of the building that houses the mines and energy division and also parts of the agriculture, food and fibre section. The two offices that provide information about ground water (even though that function is not part of PIRSA but part of the former department of water resources, which is now the Department of Water, Land and Biodiversity Conservation) were funded to undertake that work from the Department of Water, Land and Biodiversity Conservation.

The Department of Primary Industries and Resources is prepared to continue to provide the customer service section, but obviously the funding of the ground water information service is a matter for the minister and the Department of Water, Land and Biodiversity Conservation. I know that this matter has been raised publicly, and I will inquire whether the minister has any further information about the funding of those offices.

GOAT INDUSTRY

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the goat industry.

Leave granted.

An honourable member: You're kidding!

The Hon. CARMEL ZOLLO: That's a good one.

The Hon. Sandra Kanck: She's got a very strong interest in the goat industry.

The Hon. CARMEL ZOLLO: I do have a strong interest in the goat industry. Goat meat is the most widely consumed meat in the world, and Australia is the world's largest exporter of this type of red meat. There are also markets for goat hair, such as cashmere and mohair, as well as dairy

products. My question to the minister is: what role has the government played in the development of the goat industry?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for her question and for her interest in the subject. The government sees great importance in working in close collaboration with the industry to identify opportunities for sustainable economic development. Earlier today, I had great pleasure in launching the South Australian goat industry strategic plan, and I believe that its development has been a great example of this type of collaboration. The goat industry took the lead with the Department of Primary Industries and Resources South Australia, providing support as required. In South Australia, the industry is made up of multiple components and draws income from the production of meat, fibre and dairy products and currently generates revenue of $6 million annually.

One of the strengths of the plan is that it recognises the diversity that exists in the industry and includes the post farm gate sectors of the relevant supply chains. The strategic plan has set a challenging target for the industry, namely, to achieve a four-fold increase in the value of the industry in this state over the next seven years. This refers to the question asked by the Hon. David Ridgway yesterday. Although it is a small industry, it seeks to quadruple its value over seven years. Achieving this goal will require strong industry integration and communication, refined production systems and a sound working relationship between industry and government.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: The honourable member should not kid himself about that.

An honourable member interjecting:

The Hon. P. HOLLOWAY: I will not talk about the nanny state! Whilst the vast majority of goat meat is currently consumed in the same country in which it is produced, changing socioeconomic conditions in many regions in Asia and elsewhere point to a continued growth in Australia's and this state's export opportunities. New fibre harvesting technologies and the recognition that many goats that produce suitable fibre are currently not shorn will allow the cashmere and mohair sectors to grow. Also, the increasingly health conscious and discerning domestic markets of Australia offer strategic opportunity for growth in the dairy sector of the industry. I would like to recognise the support provided to the steering committee by the South Australian Farmers Federation, and in particular Jonathan Forbes, before he left to take his new position in SAFF. I commend the strategic plan working group on its work in developing this document, and I would encourage all industry stakeholders to examine the plan and provide feedback so that it can be the success it deserves to be.

The Hon. J.S.L. DAWKINS: As a supplementary question: will the minister inform the council what goat meat is otherwise known as?

LIFE INSURANCE

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Treasurer, a question about life insurance policies.

Leave granted.

The Hon. IAN GILFILLAN: The Investment Financial Services Association of Australia has given me information which causes it and others in the industry serious concern about Revenue SA's attitude to an insurance item called life riders, which are addenda to normal life policies which cover the risk associated with disability. The sort of disabilities which would be covered—and this is not an exhaustive list—include stroke, heart attack, cancer, blindness, kidney failure, deafness, major organ transplant, paraplegia and quadriplegia. These life riders are regarded by the industry and all other states of Australia as addenda to a life policy. They are described as merit risk rather than property risk and should be treated the same as life policies as far as stamp duty goes. Revenue SA, for some reason of its own reckoning, has determined that, although life policies attract 1.5 per cent stamp duty, the life riders will attract 15 per cent stamp duty, and it is keen to, as the industry describes it, gouge back to 1994 companies which have not been paying what it believes to be the appropriate stamp duty level.

This is certainly awkward as far as South Australia goes but, more, it threatens the implementation of a nationwide uniform policy on stamp duty for life insurance life riders, because if South Australia is out of step, then it cannot be a national uniform policy. The implication is that some life companies—at least some; we do not know how many—would consider pulling out of South Australia if Revenue SA persisted with this policy. It may be challenged in court, but we cannot foresee that. However, a lot of investment is going into Revenue SA trying to implement its policy, and it would be more expensive if it had to defend it in court. I am also advised that IFSA has been unable to have any communication with the Treasurer on this matter, which it finds baffling and very difficult to justify. My questions to the Treasurer are:

1. Is he aware that the actions of Revenue SA will effectively halt a national Investment and Financial Services Association industry initiative to develop a national template for the tax stamp duty treatment of life insurance and life rider products such as trauma disability cover?

2. Is the Treasurer aware that this initiative would reduce administration costs for life insurance companies that would be passed on to consumers Australia wide, thus reducing the burden on the health and human services budgets of the other states and territories?

3. Is it a fact that the actions of Revenue SA will lead to some life insurance companies pulling out of the South Australian market altogether, thus reducing choice and competition for Australian consumers?

4. Is it a fact that the proposed increases in stamp duty for South Australian policyholders with life insurance policies that include trauma and total and permanent disablement, recovery benefits and income protection will increase the cost of premiums for those consumers by between 300 and 500 per cent over the next 10 years?

5. Has the Treasurer refused to meet with representatives from the life insurance industry, despite repeated attempts on the part of the industry to do so? If so, why?

6. Can the Treasurer confirm that at least four letters from the industry relating to this issue have gone unanswered, some dating back to March this year?

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

ABORTION

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question concerning the termination of a foetus during pregnancy.

Leave granted.

The Hon. A.L. EVANS: *The Advertiser* of 26 November reported that last year 5 417 women in South Australia had an abortion. Of that number, 115 were performed because of a range of reasons relating to abnormalities in the child. Given this figure, it is assumed that many of the 5 302 abortions were performed due to other reasons including psychiatric reasons. My questions are:

1. Will the minister advise whether medical practitioners are required to inform a woman of all the possible complications, implications and risks of having an abortion carried out, including: surgical injuries such as haemorrhaging, infection and weakness of the uterus; cervical incompetence; and the possibility they may suffer a number of psychiatric effects, including post abortion syndrome?

2. Will the minister advise whether medical practitioners are currently required to obtain a signed declaration from a woman that confirms that the woman has been given full disclosure of all the risks associated with having an abortion? If not, why not?

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

MURRAY RIVER LOCKS

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, in his own right and representing the Minister for Administrative Services, a question in relation to River Murray locks.

Leave granted.

The Hon. J.S.L. DAWKINS: The role of the locks and barrages in the River Murray and associated lakes is well known in South Australia. To emphasise this role, I would like to quote from a book called *Murray Water is Thicker than Blood*, which was written by Rob Linn and which is based on the stories of the families who made the River Murray's locks and barrages. It reads:

> In the wake of Federation, the Governments of New South Wales, Victoria and South Australia, supported by the Commonwealth, agreed to authorise the construction of a series of locks and weirs on the River Murray to guarantee a navigable waterway at all times. One of their other aims was to provide irrigation and horticultural opportunities as well as industrial and domestic usage of water.

The age of these important structures means that ongoing monitoring of their condition and regular maintenance are necessary. I understand that major work is currently being carried out on the locks situated between the South Australian border and Wentworth which, along with Lake Victoria, provide a vital role in the flow of water into this state. My questions are:

1. Will the Minister for Administrative Services, who is responsible for SA Water, provide details of the maintenance program for the locks and barrages in South Australia?

2. Will the Minister for Administrative Services also outline the extent of the work currently being undertaken in locks 7 and 8 in New South Wales?

3. Will both the Minister for Administrative Services and the Minister for Agriculture, Food and Fisheries indicate whether they are aware of local community concern about the long-term stability of a pylon on Lock 3 near Kingston-on-Murray?

4. If so, what action is being taken to rectify this situation?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Most of those questions are directed to the Minister for Administrative Services. I will pass on those questions to the minister in another place.

POLICE HAND GUNS

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, questions about police hand guns.

Leave granted.

The Hon. J.F. STEFANI: Over the last two days there has been a lot of media publicity about the safety of police hand guns. There have been a number of reported failures which occurred during firearms training sessions and the guns are no longer considered to be reliable as a front-line weapon. In *The Advertiser* dated 1 December 2003 the reported cost to replace the pistols and train the police to use new ones was $3.9 million over three years. As the police are required to rely on the effective operation of these weapons when confronting serious criminal offenders or armed robbers, my questions are:

1. What is the amount raised from all speeding fines for the period 1 July 2003 to 30 November 2003?

2. How much of the proceeds raised from all speeding fines for this period have been allocated to increase police resources as promised in the 'My Pledge to You' card issued during the election by the Hon. Mike Rann?

3. Will the minister ensure that the money raised from speeding fines is allocated to replace the police hand guns as a matter of urgency?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those questions to the Minister for Police, but I remind the honourable member that the government has recently announced a significant increase in police resources that will ensure that this state has more police than at any other time in its history. Obviously, the cost of that is extremely significant, so it is not as though this government is not providing significant resources for police. I also point out that, while many other areas have been cut to try to bring the budget of this government into accrual balance, the police service has been spared those cuts. But, in relation to the specifics of the questions, I will bring back a response from the Minister for Police.

YELLOWTAIL KINGFISH

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question which is very dear to my heart about the recently introduced temporary size limit changes for kingfish.

Leave granted.

The Hon. J. GAZZOLA: Recently, the minister announced a temporary size limit for kingfish as a method for collecting data on juvenile kingfish. My questions to the minister are: how does he intend to encourage recreational fishers to take part in this data collection; and does the minister have any suggestions about which area I should concentrate my data collection efforts in?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for his question. I will deal with the first part of the question, and I can tell the council that PIRSA and the South Australian Recreational Fishing Advisory Council (SARFAC) have joined forces to collect information on recreational catches of yellowtail kingfish. Today, the SARFAC chair (Mr Graham Woollard) and I will jointly announce the collaborative kingfish catch return program. The information gathered by recreational fishers will add to existing data and help provide a better picture of the species and its life cycle in South Australian waters. It is very important that we have the best possible knowledge about the species to help future decision making about fisheries management.

Recreational fishers can pick up kingfish catch return cards from tackle stores on Eyre and Yorke peninsulas or from SARFAC. They can enter details about their catch and mail the card to SARFAC. Four fishing tackle vouchers will be awarded to randomly chosen anglers who submit kingfish catch returns between January and April. There will also be a separate category for fishers aged under 16 years. I remind the council that the kingfish catch return program is designed to add to existing knowledge about kingfish in South Australia. The temporary size bag and boat limits applying to yellowtail kingfish until the end of 2004 (and this, of course, applies to the Spencer Gulf region) is as follows: a 45-60 centimetre bag limit of 10 and 30 fish per boat, while kingfish of 60 centimetres and above will retain the old bag limit of two, with a boat limit of six.

Those new bag limits for the 45-60 centimetre category apply only in Spencer Gulf, defined as the waters of the Spencer Gulf that are north of the geodesic line joining Cape Catastrophe, Eyre Peninsula and Cape Spencer, Yorke Peninsula. The kingfish catch return program was developed following a recent report discriminating between cultured and wild yellowtail kingfish in South Australia, which found that small kingfish from northern Spencer Gulf shared a variety of characteristics with the aquaculture fish; and it was likely that those fish were escaped farm fish.

Of the 77 fish collected in northern Spencer Gulf, a total of 33.8 per cent were found to have some stomach contents, which meant that 66.2 per cent of the stomachs were empty; and, northern fish fed opportunistically and had even consumed floating plant material that would not normally be included in the diet of a carnivorous species. Information on how to participate in the scheme is available from SARFAC and tackle stores around Spencer Gulf. In relation to the latter part of the honourable member's question, obviously, if one were to come across any fish that were likely to be escapees from farms, clearly, the fact that they are opportunistic feeders that have consumed floating plant material might give the honourable member some hint as to how he might be able to catch those fish.

If, as a result of these efforts by recreational fishers we can gain more information in relation to the kingfish in Spencer Gulf, obviously, that will aid the work of the government in terms of managing the species. My understanding is that kingfish do tend to congregate around jetties and structures, but they are reasonably difficult to catch. However, based on the kingfish I have tried, I am sure that, if the honourable member does have success, he will certainly enjoy the rewards of catching those fish. I am pleased with the cooperation of SARFAC—

Members interjecting:

The Hon. P. HOLLOWAY: Yes. I am pleased that we can launch this program with SARFAC to help us provide information about this species that, obviously, are important not only to aquaculture but also to wild-catch fishers.

The PRESIDENT: If any undersized kingfish turn up in Edithburgh, the honourable member will report it to you immediately, minister!

The Hon. CAROLINE SCHAEFER: As a supplementary question, given that the minister has just read word for word his joint news release of this morning, will the minister inform me whether in fact his backbench does not have access to his media releases?

The Hon. P. HOLLOWAY: My colleague has a great deal of interest in this area and, obviously, he is very keen that others should be able to share—

The Hon. A.J. Redford: He asked a question and you didn't answer it. Where are the kingfish?

The PRESIDENT: If any turn up in the front bar of the Edithburgh pub, he will find them! He will be right on them.

The Hon. P. HOLLOWAY: Well, I did provide significant additional advice to my press release in relation to the specific question asked by the honourable member. I am sure that all recreational fishers in South Australia will appreciate the introduction of this particular scheme, even if it appears that the opposition does not.

FOSTER CARE

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Social Justice, a question about foster carers.

Leave granted.

The Hon. KATE REYNOLDS: There has been much community debate in recent months about the state of the foster care system in South Australia. Foster carers tell us that the foster care system continues to be responding primarily from a position of crisis management. Carers tell us that they believe it is impossible to service every child's individual needs with the system in its current state and that many children are still falling through the cracks. The Foster Carers Assessment Manual issued by FAYS in, I think, 1998 states:

> At the age of approval the primary adult carer will be preferably 25 years and no more than 70 years of age. For long term and temporary carers, the age gap between the child and the carer will be preferably no more than 40 years when the child to be placed is 10 years and under.

In recent weeks it has come to my attention that a number of children are being fostered by people well beyond the usual age of parenting and the age recommended for foster parenting.

In one situation, the foster father will turn 70 within weeks and the foster mother is 68 years old. These people are caring for a nine year old boy, an 11 year old boy, two 14 year old boys, a girl aged 15 and a 21 year old woman. I understand that the 21 year old has an intellectual disability and that at least one of the boys has multiple special needs. At least four

of the foster children are, I am told, under guardianship orders and are thus the direct responsibility of the minister. I understand that the 15 year old girl was placed with the family by FAYS for one night's emergency care and has stayed on under a private arrangement ever since.

My office has been told that these foster carers, because of their advancing years, were previously unable to meet the criteria to take on any new foster children. However, I am also told that they were reassessed by FAYS just weeks ago so that they could take on one of these 14 year old boys. I want to make it perfectly clear that I am not commenting on the motives, willingness or the ability of these particular foster carers to meet the needs of these children. I have no doubt that they are doing the very best they can to care for these six young people. My questions are:

1. Does the minister consider these arrangements to be satisfactory, and is the placement of a nine year old with foster parents more than 50 years older than the child for whom they are caring consistent with FAYS policy?

2. How many arrangements for both respite care and long-term care are currently in place where non relative foster parents are more than 25 years older than any of the children they foster?

3. Of these long-term care arrangements, in how many cases is the department expecting the ageing foster parents to care for the children until they turn 18?

4. What plans does the government have to increase the number of foster parents who meet the age differential requirements?

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.

GAMBLING, HOTELS

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 hotel practices and poker machine operations.

Leave granted.

The Hon. NICK XENOPHON: A constituent recently contacted my office with a complaint. He was at a hotel, and he moved from the dining room to the gaming room at around 9 p.m., as the dining room was closing. He played the pokies for a while. He was with a group of friends and continued to sit and talk with his friends in the gaming room. At around midnight, a hotel employee told him that they could not buy drinks from the gaming room bar if they were not playing the machines. He and his friends left without argument, but they have raised this matter with my office.

There is clear evidence from researchers and gambling counsellors of the link between alcohol consumption, even as low as two drinks, and excessive gambling losses. My questions are:

1. Does the minister consider this conduct to be in breach of the current codes of practice or, at the very least, in breach of the memorandum of understanding between the Hotels Association and the Churches Gambling Task Force as to the need to minimise levels of problem gambling?

2. Will the minister ask for a report from the Liquor and Gambling Commissioner's Office as to whether such a practice is in breach of any statutory obligations of venues?

3. Does the minister acknowledge that such a practice has a capacity to increase levels of problem gambling?

4. Can the minister advise whether current licensing conditions for venues specify any prohibition on such a practice and, if not, does the minister support in principle that such changes should take place?

5. Can the minister advise as to the number of complaints received about such practices by either the Liquor and Gambling Commissioner's Office or the Independent Gambling Authority?

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

WHITING FISHERY

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about a possible whiting fishery closure.

Leave granted.

The Hon. T.J. STEPHENS: During Question Time this week, the minister refused to rule out a possible closure of the whiting fishery. Before I continue, I would like to acknowledge the appreciation I have for the importance of the King George whiting fishery to this state, not only to professional fishermen but also to the many thousands of recreational fishermen and their families, many of whom take annual leave for their fishing trips. My question is: if in fact there is to be a whiting closure, will the minister make an early decision to give all stakeholders and recreational fishers the maximum possible time to plan for this possible closure and make new arrangements for their annual leave?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I appreciate the point made in the honourable member's question. At the moment the stock assessment report on King George whiting is before the Marine Scale Fishery Management Committee. That committee will be very shortly making recommendations to me about particular options. However, as I pointed out in the answer to the question the other day, it is my advice that the peak season for whiting is around May next year, so that would be the crucial time in terms of any action that the government might take. Of course, as I indicated the other day, there are a number of options including increasing size limits and reducing bag limits. Since I gave that answer, I have announced changes in relation to capping the growing charter fishing sector which will also indirectly help in this area. I would hope that I will be in a position to make a decision early in the new year, but it certainly would not affect the forthcoming Christmas holiday period.

PATAWALONGA

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Infrastructure, questions about the Patawalonga flooding.

Leave granted.

The Hon. A.J. REDFORD: Last week, the Minister for Infrastructure, the Hon. Patrick Conlon, tabled a report entitled 'Patawalonga Seawater Circulation and Stormwater Outlet System' which was prepared by GHD. The report in its executive summary states:

GHD's role has been to firstly assist the Crown Solicitor to investigate the flooding incident. . .

The report itself stated that the flooding earlier this year had two causes, namely, the failure of the Glenelg gates to open to allow stormwater out to sea and the failure of the system to alert operators to the conditions of the Patawalonga system. On page 15 the report states:

Following a visual inspection by divers of the seaward end of the Patawalonga outlet ducts, BHPL has reported a build up of sand and other material at the outlet resulting in a much reduced effective cross-sectional area available for flow discharge.

The report continues:

Similarly, the safety screens over the inlet to the Patawalonga outlet ducts are prone to becoming (partially) blocked by organic debris washed down from further up the catchment.

The report states that these two issues were not believed to have caused the flooding.

Following the release of the report, the minister attacked Baulderstone by saying that he was fed up with its bleatings. In an ABC interview last week, on a number of occasions the minister described the report as independent. However, the company, Baulderstone, described the report as incomplete. The Glenelg residents' lawyer, Mr Peter Humphries, said that the parties—the government and Baulderstone—should get together. He continued (bear in mind, Mr Humphries was an ALP candidate some years ago):

I think this is a government much more concerned with rhetoric than substance. . . There has been a lot of grandstanding made about compensation packages being offered to residents. . . It's been minimal and prolonged. . . at the present time there are residents who are still waiting to be compensated for their property losses. . .

In the light of that, my questions to the minister are:

1. Given the report was commissioned by the Crown Solicitor's Office, who is the government's lawyer in relation to any dispute with Baulderstone? Why is the government's characterisation of this report described as 'independent'?

2. Why has the author of the report stated that the blockages did not cause the flooding? Did the blockages either contribute to the flooding or hinder the response to the flooding?

3. Does the minister agree with Mr Humphries when he says that this is a government much more concerned with rhetoric than substance? Why have all the residents not been paid out?

4. Why did the government not carry out remedial work to blockages when it was reported to the government one month before the flooding, as indicated in the *Sunday Mail* of 7 September? Can the government exclude the possibility that the gate failure problem might have been detected if the government had promptly carried out that remedial work?

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

MURRAY RIVER LEVY

The Hon. SANDRA KANCK: I have questions for the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Administrative Services, about the River Murray levy. To date, how much money has been collected from the River Murray levy? How has the money been used to date?

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

The Hon. A.J. REDFORD: I have a supplementary question. In responding to the answer, could the minister provide details on an electorate by electorate basis as to what has been charged?

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

ACCESS CABS

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

Leave granted.

The Hon. T.G. CAMERON: I have received a letter from Ms Linda Nonnis, a visually impaired constituent from Hillcrest, who is concerned about the urgent need for reform of the Access Cab industry, particularly with regard to people with blindness or serious visual impairment. The letter states:

At present, those who are blind are unable to utilise the service that Access Cabs provide without considerable expense to themselves. The only viable alternative for someone on a disability pension is to access public transport. From my own experience I know that this is difficult and frustrating and the public transport system as it stands is not capable of meeting the needs of those who are visually disabled. I find it to be of great concern that South Australia does not have the structure for visually disabled people to make affordable use of Access Cabs especially given the practice of other states where this type of system is well-established. I would urge in the strongest terms that something be done to remedy this situation. To provide some comparison, I understand that those who are paraplegics receive a comprehensive range of benefits which include the ability to use the subsidised Access Cab service. In addition, paraplegics may hold a drivers licence and have the ability to see where it is that they are going. By way of contrast, people who are visually impaired have none of these comparative advantages and receive only free access to public transport despite the significant difficulties associated with using it, and the difficulties that blindness causes in attempting to negotiate such a system. I feel that a lack of serious consideration has been given to the nature of visual impairment and the day-to-day difficulties it presents where access to subsidised transport is concerned.

That is despite effort put in by Arnold Cielens over the years. I can see I got a few wry smiles when I mentioned Arnold Cielens. Arnold has been running around for years lobbying members of the Labor Party to do something for the visually impaired, for the disabled or for anybody. My questions are:

1. Given the impairment suffered by the visually challenged, the fact that they cannot drive, the difficulties they face every day to get around and the obstacles they need to overcome, will the minister explain why they are not entitled to use Access Cabs?

2. Is the government considering expanding the availability of Access Cabs to the seriously visually impaired and, if not, why not?

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

RAMSAY ELECTORATE

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food

and Fisheries, representing the Premier, a question about the electorate of Ramsay.

Leave granted.

The Hon. J.M.A. LENSINK: As was the case for most members on this side of the chamber, we were not invited to the Labor state conference on the weekend, and we have had to rely on media reports and leaks from members opposite for details. On 1 December, *The Advertiser* contained several articles that demonstrated just how out of touch the Labor Party is on policy discussions—for example, its opposition to the reduction of plastic shopping bags on the ground that cloth bags are 'a health risk', and the Attorney-General's statement in relation to a motion in support of the Director of Public Prosecutions that public opinion had 'nothing to do with sentencing' which, I note, was roundly not accepted as a truthful statement.

The article, entitled 'Take the word to the people, says Rann', really caught my eye. It was reported that the Premier exhorted Labor members to 'get back out there and talk with South Australians again'. However, I am not sure whether the Premier was urging Labor MPs to engage with their electors since, in his case at least, anecdotal evidence suggests that his time is spent somewhere within a 100-metre zone of the Parade at Norwood. My questions are:

1. Does the Premier believe that Labor members have ceased talking to South Australians since they took office?

2. How many official events has the Premier attended in his electorate in the past 18 months? What were they and when?

3. Without first checking, can the Premier recite the names of the suburbs and their postcodes in his electorate of Ramsay?

4. How many cafe lattes does the Premier partake of in the electorate of Ramsay in proportion to Norwood? What is his comparison of their standard?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): That really is a pathetic question. First of all—

Members interjecting:

The PRESIDENT: Order! There is far too much opinion.

The Hon. P. HOLLOWAY: —the honourable member made a number of errors in relation to the ALP conference. I point out that the Australian Labor Party has an open conference and there is provision for visitors.

The Hon. T.G. Cameron: Thank you; I will come next year. I will see how welcome I am!

The Hon. P. HOLLOWAY: The honourable member would certainly not be welcome, and I suspect the reason is the history, and he knows that full well.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: The Australian Labor Party has an open decision-making basis, unlike the honourable member's party. I suggest that, if the honourable member wishes to suggest that she can do a better job, she resign from this place, stand as the Liberal candidate for Ramsay at the next election and see how well she does.

The Hon. IAN GILFILLAN: I have a supplementary question. I ask the minister: was the press accurate in reporting that the conference opposed the introduction of restorative justice?

The PRESIDENT: Questions based on speculation are not worthy of the chamber.

The Hon. P. HOLLOWAY: Specific resolutions of the Labor Party are passed, but the honourable member is asking me to interpret what are, in some cases, quite lengthy and complex resolutions.

Members interjecting:

The Hon. P. HOLLOWAY: Well, that was a very lengthy issue. What a difference there is now that we have had two years of the Labor government. We are now talking about a public open decision making process. What a contrast to what we have had in the previous eight years under the Liberal government, with all the affairs and machinations that went on. The Australian Labor Party is proud of its decision making process that has been around for 100 years. Decisions are made in public. We have nothing to keep secret in relation to that. I can get the honourable member the specific resolution that was passed so he can make his own interpretation of it.

The Hon. D.W. RIDGWAY: I have a supplementary question, Mr President.

The PRESIDENT: Order! I will take a supplementary question if I can get some decorum in the council. Members are carrying on like a bunch of school boys and girls.

The Hon. D.W. RIDGWAY: Could the Leader of the Government inform us as to whether the report in the paper of there being 200 people at the ALP conference was accurate?

The Hon. P. HOLLOWAY: It is just amazing! There were certainly in excess of 200 people at the ALP conference. The delegation of the Labor Party alone amounts to almost 200.

RURAL EXPORTS

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about rural exports.

Leave granted.

The Hon. D.W. RIDGWAY: It has come to my attention that shortly the federal parliament will be passing a maritime transport security bill. The purpose of this bill is to safeguard against unlawful interference with maritime transport and meet Australia's international obligation to implement chapter 11.2 of the Safety of Life at Sea Convention and the International Ship and Port Facility Security Code, collectively called the code. The code will come into effect on 1 July 2004. Individual security plans for Australian ports, port facilities and Australian regulated ships will need to be approved by the commonwealth to ensure that desired national maritime security outcomes, including adherence to certain minimum requirements, are achieved. Effective audit and compliance arrangements will be in place to ensure that industry is complying with their improved plans.

This bill is designed to implement the measures that will reduce the risk of terrorist incidents. It will sustain Australia's and South Australia's ability to trade internationally and meet our international obligations. It will also ensure the continued confidence in South Australia's ports among our trading partners. It is estimated across the nation that this will cost around $313 million. One might guess that South Australia does not have a large number of ports, but we could estimate that it may be as much as 10 per cent of that cost. My questions are:

1. Has this government conducted a security audit of all South Australian ports?

2. Will the state government assist our important export port operators to comply with the requirements of this new legislation?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): There are probably two types of security that one could talk about in relation to ports. There are obviously issues in relation to broader security matters as to what sort of target our major infrastructure such as ports may present. Of course, that is largely a matter for the commonwealth government. There are also issues in relation to security as far as live sheep exports and other related issues are concerned. My department is concerned about the latter issue. We have taken certain steps, and I have already offered to brief the shadow minister on those matters. Obviously, it would not be wise to canvass all security matters in public, otherwise the very purpose of those arrangements would be defeated. However, the state government is keen to work with the commonwealth government to ensure that all our major facilities are as secure as can be reasonably maintained.

MATTERS OF INTEREST

PREMIER'S FOOD AWARDS

The Hon. CARMEL ZOLLO: The Premier's Food Awards 2003 event was an evening full of excitement and great celebration. The leaders of South Australia's food industry in many endeavours and politicians from government and opposition gathered together to celebrate and recognise yet another year of hard work and determination, as well as the trials and triumphs of the industry. Above all, the evening was about the pride and excellence which those in the industry contribute to making South Australia's food industry world class.

Despite some significant hurdles faced by the industry, South Australia's latest scorecard report indicates that we have performed well compared with the national average. Even though food production fell dramatically in most sectors as a result of the drought, strong consumer demand and the sustained performance of processed food exports helped cushion the fall in revenue generated by food from $9.4 billion to $8.9 billion. We are still some $600 million in front of where we would have been without the direction set by industry and government in the State Food Plan. This sustained performance of processed exports, which fell just 4 per cent compared with the national average of 12 per cent, substantiates the need for a continued focus on value adding rather than being dependent on the volatile commodities sectors.

There have also been positive signs of structural changes taking place in the food industry. We see evidence of this in the 30 per cent increase in new capital expenditure, in food processing and in retail during the past financial year.

Members interjecting:

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

The Hon. CARMEL ZOLLO: I can think of two good examples where I have represented both the Premier and minister Holloway recently, namely, the opening of Nocelle Foods' new $2 million expansion and the launch of the new Angas Park product and business initiatives.

The Premier reminded guests on the evening that it was no accident that the 6th Premier's Food Awards had been given the theme of 'To Market'. Earlier this year I had the pleasure of introducing him at the launch of the inaugural regional food trail at the Adelaide Central Market. Some 50 companies from seven regional food groups took part in that event, it being the first time for some producers that their products were available for sale in Adelaide.

Events such as the regional food trail and the Royal Show Taste South Australia highlight the importance of building linkages and finding pathways from regional areas to markets outside the region, whether they are interstate, intrastate or international. At the grassroots level we now have eight regional food groups across South Australia. They are the building blocks that lay the foundations for a strong and competitive food industry in this state and abroad, and they are also an important part of the culture, heritage and future of this state.

The Premier announced that we have recently provided additional funding to employ regional food specialists to work directly with the food groups. On the international front, the Premier outlined several exciting initiatives that the Food Export Centre has been undertaking in targeting markets overseas in Singapore, Hong Kong and the Middle East. This year, food and wine accounted for almost half—45 per cent—of all merchandise exported from the state, but we must not forget or underestimate the significance of supplying markets in this state and right across Australia.

The new year will see the next generation of the partnership between the food industry and government—the Food Centre. It will be one centre with many places where industry can access support and services, no matter where they are in the state. It will reduce duplication and coordinate and consolidate the many initiatives that are taking place at all levels, making our industry and government efforts stronger and more focused.

The Premier's Food Awards celebrate the strength and focus of the men and women who keep this important industry moving forward. All of us would agree that they are hardworking, passionate and inspired. They are leaders striving for success, both here and in markets abroad. Minister Holloway has already placed on record the winners on the evening, but I join him and Premier Rann in congratulating all the finalists. I also acknowledge the sponsors of the awards without whose support this prestigious event would not be possible. They are special people who, in partnership with government, recognise that our food industry's contribution is not just economic but also cultural and social. I add my congratulations to Executive Director Dr Susan Nelle and all her team from Food South Australia for another wonderful success.

INDONESIA

The Hon. A.J. REDFORD: The last seven years have been tumultuous for the people of Indonesia, marked by profound political change, economic crises, the Timor issue and a series of terrorist acts. In addition, the relationship between Australia's leaders and Indonesia's leaders has waxed and waned. Indonesia is our nearest Asian neighbour, the world's fourth most populous state, the third largest democracy and, undoubtedly, one of the most culturally diverse nations in the world. It is also one of the most

religiously tolerant nations on the planet, having the largest Muslim population in the world living side by side with Christians, Buddhists and Hindus.

The federal parliament's foreign affairs committee is currently examining Australia's relationship with Indonesia in what I suspect is one of the most important parliamentary inquiries currently being conducted in Australia. In a recent article, written by Dougal McInnes, a Research Officer at the Australian Strategic Policy Institute, published in the House of Representatives magazine, *About the House*, he noted the immense importance of the Australian-Indonesian relationship. In that respect, Mr McInnes notes two important features underpinning this relationship.

First, he notes that public support for the relationship is not strong, and probably is better described as apathetic. Secondly, Australians and Indonesians do not have overtly shared values. The article notes some important matters, including the importance of education and the fact that Indonesia is Australia's biggest source of foreign students. It also notes the Australian government's total support for the indivisibility of the Indonesian republic. The author urges Australian politicians to seek to improve Australians' understanding of the role of Islam in Indonesia by stressing that the overwhelming majority of Indonesian Muslims are moderate. In the article he states:

> Indeed, misunderstanding Islam represents the greatest barrier to stronger Australian public support for Indonesia.

To that end, the Indonesian government is sponsoring a tour of eastern Australia of the renowned Indonesian poet and performer Emha Ainun Nadjib, well known singer Novia Kalopaking and music group Kiai Kanjeng. The Indonesian Students Association of South Australia, the Australian-Indonesian Association and the Muslim Students Association of South Australia, through their own efforts, have undertaken to bring these acts to Adelaide at their considerable financial risk. The groups will perform at Elder Hall at 7 o'clock on 13 December. I can arrange tickets, for about $20, if any member is interested in attending.

The object is that, by introducing the Australian public to Indonesian music and poetry, the organisers hope to improve understanding and appreciation of Indonesian culture. The tour is a unique opportunity to experience that culture first-hand. It was designed to enrich the wider Australian community's awareness and appreciation of Indonesian art, culture and music. Their objective is to encourage attitudes of tolerance, understanding and friendship towards neighbouring Indonesia. In particular, the Islamic elements of the music aim to provide Australians with an opportunity to gain a deeper understanding of Islam and Indonesia.

The judgment by the Indonesian government in relation to this exercise will be dependent upon the size and diversity of Australian audiences, which will indicate the overall success of the project. Indeed, the organisers are seeking as much media coverage as possible as an indicator of the project's success. The project has been well covered in the Indonesian media and they are looking at this with some degree of interest. Mr Emha Ainun Nadjib toured Australia earlier this year and gave poetry readings in Sydney, Canberra and Melbourne. He was able to draw enthusiastic audiences, according to media reports, and I understand many Australians attended those performances.

I congratulate the organisers and wish them all the best. I have also asked that the Premier and the Attorney-General provide financial assistance in relation to this event, and I publicly thank the Premier, the Attorney and their staff for listening to me and seriously considering the applications for assistance. I also thank Mr Kiosoglous, chair of the Multicultural and Ethnic Affairs Commission, who has also provided great assistance.

GLEN OSMOND PRIMARY SCHOOL

The Hon. G.E. GAGO: The Glen Osmond Primary School recently celebrated its 125th birthday, which I was delighted to be able to attend and officially open on behalf of the minister for education, the Hon. Trish White. The school is steeped in history. It opened at its present site at Myrtle Bank in 1878. The school prides itself on having a strong community feel—a philosophy which supports learning for life and excellence, as well as the advantages which arise as a result of having a small school culture. All these things on which the school prides itself were extremely evident when I visited the school last month to share in its celebrations.

As I arrived at the school on the day, I was met by my official greeting party: two very enthusiastic students of the school. They then took me on a tour of the school and the 'Then and Now' exhibition, which showed, as the title of the exhibition suggests, images and information of the history of the school and how it has progressed into something the community can be proud of today. Some of the displays in the exhibition included an Aboriginal food trail, which visitors were able to follow; a newspaper written and published by the year seven students; a 'Museum of the Decades', which was both researched and coordinated by the year six students; an opportunity to make an i movie; one could learn how to send an email, search the internet and create an animation; the 'old stone road' show bag of which the year four and five students can be very proud; and old-fashioned games and a miniature Glen Osmond village.

There was also an art gallery. You could purchase a piece of student art, the proceeds of which would go towards, as I understand it, a new laminator for the school. I am sure that many pieces of art are still available for purchase if any members are interested; and, I might add, they were quite spectacular pieces of art. The high quality of the exhibition demonstrates the results of engaging young people in purposeful and meaningful learning. They should all be congratulated and commended for their hard work, efforts and fantastic results. It was a very entertaining day, indeed.

It was wonderful to see that there are students with longstanding connections to the school. Mr Hill-Ling (Chairperson of Hills Industries), who participated in the 125-year celebrations, attended the school in the 1930s. Mr Hill-Ling was able to recognise the classrooms in which he was originally taught as the original school buildings are still used today. A recent funding allocation for the school will ensure the upgrade of these buildings so that they continue to cater for the demands of 21st century teaching and learning while still retaining the charm and heritage of the old buildings.

Schools should be places where children of culturally and linguistically diverse backgrounds come together and share their unique qualities and learn from one another. It is wonderful to see school communities aiming to provide a learning atmosphere that is supportive, democratic and culturally inclusive. Glen Osmond Primary School certainly strives very hard to achieve those things, particularly through its sports, arts and music programs. The school also has a strong focus on the use of information and communication

technology within the curriculum, which will obviously stand its students in good stead within a world that is using such technology at an increasing rate.

Worthy of note are those students who were recently successful in the Young Film Makers Awards and short documentaries. I wish particularly to congratulate both the successful young film makers and, more broadly, the school community for fostering an environment of encouragement; because, clearly, that overall encouragement is closely linked to the successful achievements of its students. I must thank the Glen Osmond Primary School community for allowing me to share in such a very special occasion.

CLUBS SA AWARDS

The Hon. T.J. STEPHENS: I draw the attention of the council to the recent Clubs SA Awards of Excellence ceremony held on 18 October 2003 to honour the work of clubs in South Australia and the work of outstanding individual organisations. Among the guests acknowledging the work of Clubs SA were many members of the South Australian parliament, including the Hon. Ron Roberts, the Hon. Jay Weatherill, the Hon. Rob Kerin, the Hon. David Ridgway and me. Although it has been cliched, clubs truly are the backbone of our community, bringing people together with a common interest.

This is particularly true of rural South Australia, where being a member of a club can alleviate some of the geographical isolation that is often felt in country areas. In addition to this, clubs help to alleviate some of the social problems that can plague suburban and country South Australia, such as the loneliness that can affect elderly people and the problems of youth crime and suicide. Social problems are not isolated to rural areas but also affect sections of urban areas. One of the most common complaints of young people today is boredom. This sometimes leads to juvenile crime, but belonging to a club helps alleviate this problem by promoting inclusion and belonging.

An obvious example is the local footy club, which impacts not only on the players but also all those involved with it. The clubs in South Australia are not just sporting clubs. Many other clubs raise community spirit in both rural and metropolitan areas, for instance, Apex, Probus, Scouts, the local bowling club or quilting club; and many other clubs do important work and are worth mentioning. However, the groups that were recognised at Clubs SA's annual awards ceremony particularly deserved their awards due to their continued service to the community and, in particular, the Cobdogla District Club, a winner of three awards for its service to the Riverland.

Other clubs that I should mention include the Roosters Club, which received awards for both its financial management and club spirit and the Para Hills Community Club, which won the Encouragement of Sport Award, which gives recognition to its willingness to become involved with the development of both junior and senior athletes and advancing sport in South Australia, which is important for developing youth morale in South Australia. One of South Australia's new developments, the Morphettville Junction, was honoured in the hospitality section, receiving awards for its dining and promotion efforts.

Other clubs recognised were the Salisbury North Football Club, the Para Hills Community Club, the Grange Golf Club, the Parafield Gardens Community Club, the Mount Gambier RSL, the Unley Community Sports Club and the Wudinna Community Club. Those clubs were recognised either for community development or their growth. Since the Clubs SA Awards night, the Hon. David Ridgway and I were taken on an educational tour of some of the award winning northern clubs by Clubs SA's Bill Cochrane. During this tour we visited the Parafield Gardens Community Club and the Para Hills Community Club. Both facilities are an outstanding testament to their management and membership.

Their diligent management and staff provide high quality meals at affordable prices for their patrons. Both the Parafield Gardens Community Club and the Para Hills Community Club provide financial support for sporting groups within their communities. I will continue to maintain my strong support for the work of Clubs SA and individual clubs that help bind communities and towns together. I urge other members to do the same and support their local club. The tour was both informative and enjoyable and, again, I thank Mr Bill Cochrane for the educational tour of the premises.

BABY BOOMERS

The Hon. SANDRA KANCK: I speak today in praise of baby boomers. Governments around the country have ministers for youth and ministers for the ageing, but no-one represents that much maligned group, those born between the end of the Second World War and the early 1960s, being so-called baby boomers. This group has achieved so much for our society. As short a time as 50 years ago female teachers in this state were paid less than their male counterparts, even though they were doing the same work. It was not possible to be a married woman and attain the position of school principal. In order to do that, a woman had to remain a spinster, but no such sacrifice was asked of male teachers.

Baby boomers fought for equal pay for women, and later the right for women to be able to have superannuation cover. It is interesting to observe that, in the current debate, the allegation is made that baby boomers have not prepared adequately for their retirement. If there is any validity to this claim, it is worthwhile noting that it was not for the want of trying by female baby boomers. For two decades the mostly male decision makers in the group, currently titled 'the ageing', actively resisted the organised demands from the post-war generation for women to be given universal and portable superannuation cover.

As teenagers in the 1960s, male baby boomers fought for the simple right to decide what length to wear their hair, a right that those of generation X simply assume as they walk down the street wearing their pigtails. Yet, in the 1960s, some schoolboys were literally held down in their high schools while headmasters forcibly cut their hair.

Female baby boomers fought for equality and did it so well that the women of subsequent generations, who now reap the benefits, can say defiantly, 'I'm not a feminist.' In a sense, they do not need to be because their mothers fought the fights for them. Female baby boomers fought successfully for the right to control their own fertility, and their daughters are the beneficiaries.

Baby boomers took to the streets in the 1960s and early 1970s to protest and bring about the end of Australia's involvement in Vietnam. In so doing, they established the right to peaceful organised protest that we all take for granted. Even today, my experience over and over again is that it is still the baby boomers who are the mainstay of

public protest, from the campaign for an independent East Timor, whose baby boomer members kept the candle alight for the East Timorese over a period of more than 25 years when no-one else was interested, to the monthly Women in Black protest on the steps of our Parliament House.

We are told that gen Xers are resentful because they will not get their parents' money until they are too old to enjoy it. I do not believe that. We are told that gen Xers do not want to have to pay the taxes to support their parents in their old age. A fortnight ago, at the National Population Summit, we were presented with the proposition that this resentment is such that many gen Xers will head off overseas to work rather than pay the high rate of taxes that will be demanded of them. I cannot believe that is true. Gen Xers were the first generation who were able to decide not if they would go to university but at which university they would study. I do not ever remember any baby boomers saying, 'I don't want to pay my taxes because it's going to fund the next generation to go to university.'

Many baby boomers like myself are parents of gen Xers, and it is simply not our experience that our children are so selfish. There are selfish people in every generation, but I challenge those peddling this construction of history to have an honest look at what they are saying and to really look at the contribution made by baby boomers.

Those who gave birth to baby boomers (that is, my parents' generation) experienced something called the 'empty nest syndrome'. By contrast, baby boomers say, 'If only.' Now, at the same time as holding down their jobs, they find that their expectations of a home that once again becomes their own are dashed. Mothers, in particular, find that they are still doing the washing, the ironing, and the cooking for their very adult offspring who are still at home in their late 20s.

Our world has irrevocably changed, and scapegoating one group of people—be it for their age, their gender, their race, or their sexuality—will not be the way to move forward to deal with the complexities of the world that has evolved. It is time to put aside this talk of gen Xers resenting baby boomers. We should recognise the revolutionary contribution baby boomers have made to our society. They should be celebrated and their achievements honoured.

GREEK ORTHODOX COMMUNITY OF SOUTH AUSTRALIA INCORPORATED

The Hon. J.F. STEFANI: Today I wish to speak about the achievements of the Greek Orthodox Community of South Australia Incorporated. On Sunday 16 November 2003, I was privileged to attend the annual Greek Festival, which was organised to celebrate the 16th anniversary of the establishment of the Ridleyton Greek Home for the Aged and the opening of a new wing, which will cater for additional low care beds and other day care services and training facilities.

Since its establishment in 1930, the Greek Orthodox Community of South Australia Incorporated has provided its members and many South Australians of Greek origin with a wide range of services and activities. During this period of development, this community organisation has built important facilities, including schools and churches, as well as significant aged care and nursing home centres.

The Ridleyton Greek Home for the Aged is an excellent example of the commitment the Greek Orthodox community has towards care for the aged. This magnificent centre, which has been built with joint community and government funding, is a large and modern complex situated at 89 Hawker Street, Ridleyton. It comprises 78 low care beds, 42 high care beds, and 18 independent units, which have been built in conjunction with the South Australian Housing Trust. The centre also provides dementia respite care programs as well as 30 Greek community care packages.

The centre has been specifically built to provide care, accommodation and services that are sensitive to the linguistic and cultural needs of elderly South Australian residents from a Greek background. However, this aged care centre is also home to a number of people from various backgrounds. Consistent with these aims and policies, the management committee of the Greek Orthodox Community has recently completed the upgrade of the centre and has constructed an impressive new wing, which incorporates modern facilities for rehabilitation and therapy for the residents at the centre. It also incorporates a library, meeting rooms and training facilities for the use of both residents and staff.

The Greek Orthodox Community has also been successful in obtaining government grants and funding, on an ongoing basis, for 30 Greek community care packages. These packages are specifically designed to enable older people to live in their own homes and communities for as long as possible, whilst receiving support in maintaining and achieving a good quality of life and independence.

I am aware that in August 2003, the centre was audited for certification and received a 97 per cent result. In my view, that is a tribute to the outstanding achievements attained by this organisation, and it is certainly a reward for the enormous efforts made by the management committee, the staff and the many volunteers who are involved in the care of our elderly citizens.

The annual festival, which I have been privileged to attend with my wife over a number of years, brings enormous joy and entertainment to the residents and staff at the home. They interact and celebrate these outstanding community facilities that have been built through the generous contributions and support of many members of the Greek Orthodox Community and funds received from both the state and federal governments.

In closing, I would like to pay tribute to the significant contributions which members of the South Australian Greek Orthodox Community have made and continue to make to provide care for the pioneering migrant citizens in our community. In offering my congratulations to the President, Mr Theo Maras, and all members of the management committee, I take this opportunity to wish them continued success for the future for this outstanding aged care facility.

INTERNATIONAL DAY FOR PEOPLE WITH A DISABILITY

The Hon. A.L. EVANS: Today is the International Day for People with a Disability. This year the organisers have chosen the theme of celebration of ability as the focus of today's events. I want to use this opportunity to highlight some of the remarkable efforts and contributions made by people with a disability. I want to also mention the efforts of Disability Action Incorporated, an organisation working to support people with a disability in our community.

Last month, South Australia hosted the 2003 National Aboriginal and Islander Sport Awards. One of the most popular winners of the night was Mr Troy Murphy, who won the National Aboriginal Disabled Sportsperson Award. Troy is a great champion in the sport of ten pin bowling. At this

year's National Ten Pin Bowling Disabled Championship, he set a new national record and added another two gold and two silver medals to his trophy cabinet. Troy does not believe that his cerebral palsy and epilepsy are barriers to a successful sporting career. In his speech, Troy made a statement that echoes the theme of today's celebration. He said:

It is not the disability that people should focus on but rather the ability in the disability.

His life is a testament to his belief in that statement.

On Friday 5 December, in the Adelaide Town Hall, a number of people will receive awards for their achievements in the sector of employment. This annual awards ceremony recognises employees with disabilities who overcome extraordinary circumstances to gain and maintain employment. Employers are also recognised as part of the awards ceremony from the perspective that they have employed people with disabilities and have supported them over and above their duties as employers. By doing so, they are promoting the employment of people with disabilities in their local business community. I congratulate all those nominated for each of the awards because I think that they are already winners.

The concept of the Employment Awards originated from an Adelaide based organisation called Disability Action Incorporated. The management and staging of the awards is one aspect of the advocacy work that Disability Action does for people with disabilities in our community. It should be noted that the advocacy work of Disability Action is available to people with intellectual, sensory and physical disabilities as well as to people suffering mental illnesses, psychiatric disabilities and brain injury. Importantly, the organisation offers advocacy to parents, partners and associates of people with disabilities if they have been discriminated against on the grounds of their relationship to a person with a disability.

Disability Action delivers both systemic and individual advocacy. Systemic advocacy aims to change the conditions which cause people with disabilities to be disadvantaged and discriminated against. Individual advocacy is provided to individuals who are in need of assistance to uphold their rights and access services in their community. All advocates act on the express wishes of the person with the disability in need of advocacy.

An example of where Disability Action has provided both individual and systemic advocacy resulting in a win-win situation for people with disabilities is when it highlighted to the Human Rights and Equal Opportunity Commission that none of the buses ordered for public transport by the Department of Transport were accessible for people with disabilities. This case was won and now around 20 000 people with mobility impairment in South Australia, and tourists, are now able to use public transport in South Australia.

Other recent achievements of Disability Action have been the initiation and development of disability action plans for business and the Public Service; the development of standards in support of the Disability Discrimination Act, such as the transport, education and electronic accessibility standards; and the building of consumer rights networks, such as the National Coalition Against Poverty (NCAP), the Health Consumer Alliance and the Fair Go Committee in South Australia. All of these activities are undertaken to promote the inclusion of people with disabilities in society. I believe that opportunities that create moments for recognition and acknowledgment are important pillars in the lives of people with a disability because it provides an opportunity for the wider community to be aware of the effort being made. I hope that many more memorable moments come out of today's celebration.

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

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): On behalf of the Hon. P. Holloway, I move:

That the time for bringing up the committee's report be extended until Wednesday 7 July 2004.

Motion carried.

SELECT COMMITTEE ON PITJANTJATJARA LAND RIGHTS

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

That the time for bringing up the committee's report be extended until Wednesday 7 July 2004.

Motion carried.

SELECT COMMITTEE ON STAFFING, RESOURCING AND EFFICIENCY OF THE SOUTH AUSTRALIA POLICE

The Hon. R.K. SNEATH: I move:

That the time for bringing up the committee's report be extended until Wednesday 7 July 2004.

Motion carried.

SELECT COMMITTEE ON MOUNT GAMBIER DISTRICT HEALTH SERVICE

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

That the time for bringing up the committee's report be extended until Wednesday 7 July 2004.

Motion carried.

SELECT COMMITTEE ON THE STATUS OF FATHERS IN SOUTH AUSTRALIA

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): On behalf of the Hon. Carmel Zollo, I move:

That the time for bringing up the committee's report be extended until Wednesday 7 July 2004.

Motion carried.

NATIONAL PARKS AND WILDLIFE (INNAMINCKA REGIONAL RESERVE) AMENDMENT BILL

In committee.

(Continued from 2 December. Page 813.)

Clause 5.

The Hon. T.G. ROBERTS: During the debate on this bill yesterday, the Hon. Mr Stephens and the Hon. Mr Cameron asked whether the Minister for Environment and Conservation consulted with the South Australian Chamber of Mines

and Energy in relation to the protection of the Innamincka Regional Reserve. The minister has advised me that he met with representatives from the Chamber of Mines and Energy on several occasions including in their boardroom. The discussion involved a range of issues including an explanation of the government's position on Coongie Lakes.

The opposition took to the last election a commitment to protect Coongie Lakes. To that end, the government has consulted with the public of South Australia. Of course the agreement reached between the Conservation Council and Santos to protect the Coongie Lakes was also made public. The amendment put forward by the opposition seeks to allow for exploration and the possible extraction of oil and gas through lateral subsurface access that begins from outside the no-mining zone. This amendment is opposed by the government. The protection of the significant environmental values of the Coongie Lakes wetlands from mineral and petroleum exploration extraction activities is a key policy commitment of this government.

This commitment has been central to the negotiations that occurred between Santos, the Conservation Council and the government over the protection of the Coongie Lakes, following the development of the memorandum of understanding between Santos and the Conservation Council. It is worth emphasising that the no-mining zone is part of the overall management arrangements developed for the Innamincka Regional Reserve. The wider regional reserve retains existing rights of access. There is a buffer zone around the no-mining zone which allows for subsurface access beneath that zone. A core no-mining zone and a national park protect the key environmental values. Therefore, these arrangements strike the best balance between protecting key environmental values, which are outstanding and amongst the highest values in the state, and providing continued access.

It is also worth emphasising that the no-mining zone comprises only eight per cent of the Innamincka Regional Reserve and just over two per cent of the area covered by the Cooper Basin that is within South Australia. The no-mining zone will conserve all the areas assessed as being of high waterbird habitat significance. This must be seen as an outcome that achieves the greatest balance. There are concerns that sub-surface access may affect the surface by impacting on ground water resources. The government believes that a precautionary approach to this issue should be taken to ensure that the environmental values of the Coongie wetlands, an area of international significance, are protected in perpetuity. For these reasons, the government cannot accept the amendment put forward by the opposition.

The Hon. T.G. CAMERON: Rather than putting a direct question to the member, I will outline a few of my own thoughts. I am in two minds about the amendment being moved by the opposition. My understanding of lateral subsurface access in the oil and mining industry is that they come in at an angle when drilling. And, if they are subsequently able to find oil and gas in a deposit, they remove the oil and gas through the same incursion. My understanding of lateral subsurface access—which is, I understand, in operation all around the world—is that it was a practice developed to preserve the pristine nature of parks and wildlife. This kind of drilling and/or subsequent extraction of oil and gas means that there would be no disturbance whatsoever to the surface area. I understand that; it is logical if one is rational about it.

If you are not crossing the surface area, you are probably not disturbing it. I am a little unclear as to any disturbance that may take place in the extraction of the oil and gas. From my limited reading, where this method has been used elsewhere they are able to extract the oil and gas; not with minimal disturbance, but with no disturbance to the surface area—they do not even access it. Is that the same kind of activity covered by your amendment? Would there be no disturbance whatsoever to the surface area? Initially there would be drilling: we know what that is about. I have been up to Roxby and to drilling and mining sites all over South Australia. I am not certain about the extraction of the oil and gas. My reading indicates that there is no disturbance to the surface area. Is that what is contemplated here, by your amendment?

The Hon. T.J. STEPHENS: I thank the honourable member for his questions. It is our understanding that there is no disturbance. In fact, when I asked parliamentary counsel to draw up the amendment, we were concerned that there would be enough beef in the amendment to make sure that there would be no disturbance to any surface, including surface water and vegetation. As I said in my second reading speech, we are extremely concerned about the environment and the area. We would not be proposing this particular amendment if we thought that there would be any damage done to that extremely precious part of Australia. We believe that modern technology will allow the best of both worlds. We can extract oil and gas and leave the pristine environment in place.

The Hon. SANDRA KANCK: The Democrats will not be supporting this amendment. When it was first presented yesterday, I was uncertain because I knew there was, in the memorandum of understanding, some agreement that allowed for horizontal mining. Closer examination has shown that this amendment would affect not only the area where that was anticipated but also the areas that have been defined as no-go areas in the memorandum of understanding. Such mining would come from the outside and not just go into that buffer zone (or special management zone) and it would go across into a second zone. This is outside the terms of the memorandum of understanding signed by the petroleum companies and the conservation groups. Therefore, it is totally unacceptable to the Democrats. The conservation groups also tell me it is totally unacceptable. I remind members that this whole thing did not happen overnight; it started in 1997. Nobody has been surprised by this. The memorandum of understanding was signed in March last year, 18 months ago. There is nothing new there. I am surprised that the opposition has decided to introduce this at this time.

I lived in the Hunter Valley, in Cessnock, a coalmining area, for three years. Throughout that part of the valley there were large areas where subsidence occurred. When you get closer to areas like Lake Macquarie, with the mines around there, because of the lower level of the watertable, there has to be constant pumping of water out of those mines. I would anticipate that with the lakes; that going underneath in that way could also result in the water having to be pumped out. The water is very precious at that point. That could result in a negative impact on the watertable generally and in particular on the health of the lakes. Certainly, at this late stage, I cannot see the technological evidence that would say it could be done. Most importantly, it was not envisaged in the original memorandum of understanding and it is therefore unacceptable to have this amendment in this particular bill.

The Hon. NICK XENOPHON: I am not convinced that I should support the amendment of the Hon. Terry Stephens for a number of reasons, some of which have been outlined by the Hon. Sandra Kanck and the minister. I am concerned

that there has been extensive consultation with a major mining and exploration company and an agreement has been reached. I am concerned that, if this amendment were carried, it would undermine the basis of the protection zone and the no-go area. I understand that the no-go area is, effectively, 8 per cent of the whole park, but I stand to be corrected. So, in terms of prejudice to other mining activities, it is marginal at best.

The Hon. Terry Stephens referred to the issue of technological advances, and I think that the Hon. Terry Cameron alluded to those as well, but I am still not convinced. I think that the cautious approach is to not support this amendment. However, it may well be that, at a later stage, further evidence will make it clear that it will not impact on the environment. However, at this stage, I do not support the amendment.

The Hon. P. HOLLOWAY: I hope that I can contribute something to this debate, because obviously a lot of work was put into the development of the Coongie Lakes proposal and involved the Department of Environment and Heritage, as well as the minerals and energy division of PIRSA. Around this region, which has been set up as a no-go area, if I can use that term, there is a buffer zone, or a management zone, as it is described in the act. In that zone, hand-held exploration and vertical drilling can be undertaken. However, the honourable member's amendment effectively shifts that carefully worked-out boundary inwards, and that would be its practical impact.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Well, the buffer zone around the protected area needs to be carefully managed. It is an area in which hand-held exploration can be undertaken. If a resource were discovered right on the edge of the buffer zone, it would be possible to drill underneath and recover it. However, if this amendment were to be passed, the effect would be to shift the buffer zone right into the centre of the area. One can argue whatever one likes, but this issue was very carefully considered in the original bill—over not just months but years—to try to work out the boundaries that would correlate with the areas of environmental value within the Coongie Lakes.

The other point I make is that, in terms of vertical drilling underneath the ground, the reality is that you really need to know what is on the surface. All the surface exploration work would need to be done before any petroleum explorer would want to drill vertically underground, otherwise it would be purely speculative and enormous amounts of money would be wasted. No sensible oil or petroleum driller will go to the expense of vertical drilling if they do not have any information from the surface as to what is below, and that is why we have the buffer or management zone—so that there can be those activities that create minimal disturbance to the ground, namely, the hand-held exploration and, if there is a reserve right on the edge of the buffer zone, it is possible to drill into it. Again, I make the point that, if this amendment were carried, it would effectively contract the whole buffer zone inwards.

The Hon. T.J. STEPHENS: In response to the Hon. Sandra Kanck's contribution, was the memo that she referred to signed off by Santos, the government and the environmental groups but not all members of the mining fraternity?

The Hon. Sandra Kanck: It was signed off by five oil companies.

The Hon. T.J. STEPHENS: Again, it was not exactly signed off by all those who are interested in mining this area. My amendment provides that water would be protected. We ensured that parliamentary counsel was aware of our intention, and they assured us that it would not be possible to interfere with water on the surface or subterranean water. I acknowledge that the Liberal Party is extremely concerned about the Coongie Lakes area. We believe that, in this current day and age, you can have the best of both worlds and that you can use this type of mining that will not damage the environment.

The Hon. T.G. CAMERON: I acknowledge the contribution made by the Hon. Sandra Kanck. I am not quoting her verbatim, but she seemed to be saying that, if they did develop the technology, it is her opinion at the moment (and I think that this is what this debate is breaking down into, namely, whether or not we have the technology or the capacity to undertake this lateral access mining properly) that it would not be a problem. I was encouraged by the honourable member's contribution, but I do not want to praise her too much until I have read the *Hansard* carefully.

However, if I interpret the honourable member's remarks correctly, she is not quite the Luddite I thought she was. If we develop the technology, provided that we can satisfy her that it is safe and so on, it would not be a problem. It is encouraging to note that the Australian Democrats and I are not that far away from each other. On this occasion, we are not arguing about principle: it is a matter of opinion. The Democrats are of the opinion that the technology is not currently available; other members seem to believe that it is. The only encouraging thing about that debate is that there is one certainty in life: technology will keep advancing and improving. So, there is hope for the Hon. Sandra Kanck yet.

The Hon. A.L. EVANS: Family First opposes this amendment, primarily because it has the potential to destroy a unique environmental area. The amendment provides that mining rights may be acquired, providing the exercise of those rights does not result in disturbance of the surface of the land within the zone. However, the amendment still allows mining companies to carry out subsurface drilling. The Innaminka regional reserve is the only inland freshwater system in Australia. Essentially, it is a lake system surrounded by wetlands. There are subsurface watertables that could be interfered with were mining permitted, and that is my concern—the watertables.

I note that Santos has had a substantial leasehold interest over the area. It has been in negotiations with the government and other groups for some time and has agreed to surrender those rights for the sake of the preservation of the area. It seems unfair to introduce an amendment that will give other mining companies the right to mine where few companies previously had those rights. This amendment could take away all incentives for Santos to continue with its agreement. I understand that more than 90 per cent of our state is the subject of mining leases. I do not believe that the economic advantages are a sufficient incentive to justify the possible destruction of such a beautiful area of our state.

Amendments negatived; clause passed.

Clause 6 passed.

Title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

VICTIMS OF CRIME (CRIMINAL INJURIES COMPENSATION REGULATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 December. Page 819.)

The Hon. IAN GILFILLAN: I indicate Democrat support for the second reading of this bill and acknowledge that we take particular interest in the amendment to be moved by one of our Liberal colleagues, the Hon. Robert Lawson. Our position is that we believe in the measure—and I am referring specifically to the restraint on a legal representative of a victim getting uninhibited medical opinion and even an ancillary health support professional's opinion in supporting their case. There are people who specialise specifically in this practice, and Russell Jamison is one whom the Democrats have known for many years and whose integrity and effectiveness in the area are widely respected.

One also needs to balance this with the possibility of what we can achieve in this council by way of amendment to the bill. No-one is disputing—in fact, everyone is claiming—the increased fees chargeable by the solicitors involved. That is not the point at issue at all. I thought that the extensive submission by the Hon. Angus Redford quite adequately canvassed the injustice of the restraints that the bill in its current form imposes. One of the reasons that this matter has come to a head is that the Legislative Review Committee has been looking at some of the detail of how and the reasons why the Attorney-General has seen fit to move the restriction on specialist reports being obtained through the period of negotiation by a victim looking for compensation.

It would be helpful to read into *Hansard* a letter I received only this morning as a member of the Legislative Review Committee. It is dated 13 November and is from the Attorney-General. One of the significant points is that the government has put the view that unbridled access to these extra medical and health professional reports would blow out expenses on the fund to an unacceptable level. The Democrats are sensitive to the fact that the fund is a limited fund, and it is principally set up to provide compensation to those victims who clearly deserve it and probably clearly deserve more. However, the pool is of limited size, so we are conscious of that. To irresponsibly invite unnecessary and expensive procedures before some individuals may have been judged deserving of compensation borders on our being irresponsible in dealing with this matter.

The Attorney gave evidence to the Legislative Review Committee when questioned about this. It is best explained by my reading a letter he wrote, varying, to a certain degree, what he had given as evidence at a previous meeting of the committee. The letter is addressed to the Hon. J.M. Gazzola, MLC, Presiding Member, Legislative Review Committee, Legislative Council, Parliament House, North Terrace. It states:

> Dear John,
>
> Regulations under the Victims of Crime Act 2001
>
> I refer to my evidence to the Committee on 17 September, 2003 about the above Regulations, since disallowed.

I make the point that the committee saw fit to disallow those regulations, partly on the grounds that I have referred to previously. The letter continues:

> I should correct what I told the Committee in one respect. When speaking about the Crown Solicitor's practice in granting or refusing approval for the Fund to pay for specialist reports to be obtained during the period for negotiation, I said that the Crown had taken an unbending or unduly rigid approach to such requests.
>
> I have since learned differently. The Crown tells me that its practice is to consider these requests case-by-case and that it has granted about half of all these requests.
>
> The Crown does not have statistics for the period up to 17 September, 2003, but it has kept a record since, which shows that, of 13 requests, seven have been granted and six refused. My evidence that the Crown's approach has been too rigid therefore appears to have been misinformed. I apologise.
>
> Yours sincerely,

It is signed 'Mick,' which is the honourable member's signature for Attorney-General.

The Hon. Robert Lawson's amendment was put on file yesterday. With the shortness of time and other matters of pressing business, it has not been possible to exhaustively analyse the impact of the amendment. However, I appreciate the assistance I had from government advisers to get at least some understanding of it. I hope and believe that the committee stage will be quite revealing in analysing exactly the impact of this amendment. I would hope that questioning and answers will do that.

As I understand it, the amendment still does not go as far as Mr Jamison requested, but it certainly goes further than the bill in correcting what could arguably be seen as an injustice, an unfair restraint on victims being able to get what they regard as helpful medical or psychiatric reports to present in their case. So, rather than discuss that matter any further, at this stage all I need to do is repeat the Democrats' support, first, for the second reading and, secondly, for the actual request of Mr Jamison—and we have supported him for some time.

We believe that he has integrity. He has been very close to the victims' community and their needs, and we would have preferred to see his requests implemented in the legislation. However, it is my feeling (and I do not expect to be proved wrong) that the numbers are not in this chamber to support amendments to that extent. My understanding is that the Liberal amendments go part of the way, and so I would indicate that we will be looking favourably at those amendments.

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

The PRESIDENT: Is it with respect to the matter before the chamber and does it relate to an issue that has just occurred? The member may not enter the debate.

The Hon. A.J. REDFORD: Yes.

Leave granted.

The Hon. A.J. REDFORD: Yesterday in my contribution on this bill, I said:

> And this is the important bit. He said [in referring to the Attorney-General]:
>
> What I do know is that, during the period the regulations were in force, the Crown Solicitor's Office took an unbending attitude to this regulation and did not allow psychiatric reports or allied health professional reports to be funded. I think the best gesture we could make is to say that the unbending attitude will be relaxed should these regulations come in.

I then said:

> So, we have a statement on the part of the Attorney to the effect that these regulations have not been used appropriately or adequately by those charged with looking after the interests of the taxpayer and those who had responsibility for the fund.

This morning I received a copy of a letter addressed to the Hon. John Gazzola from the Attorney-General in relation to

the evidence which I quoted. I will read the letter, which states:

> I refer to my evidence to the Committee on 17 September 2003 about the above Regulations, since disallowed.
>
> I should correct what I told the Committee in one respect. When speaking about the Crown Solicitor's practice in granting or refusing approval for the fund to pay for specialist reports to be obtained during the period for negotiation, I said that the Crown had taken an unbending or unduly rigid approach to such requests.
>
> I have since learnt differently. The Crown tells me that its practice is to consider these requests case-by-case and that it has granted about half of all these requests.
>
> The Crown does not have statistics for the period up to 17 September 2003, but it has kept a record since, which shows that, of 13 requests, seven have been granted and six refused. My evidence that the Crown's approach has been too rigid therefore appears to be misinformed. I apologise.

I regret that I did not have a copy of that letter yesterday. That would have obviated my quoting the earlier bit but I accept the Attorney's apology and hope that assists the minister when he responds to my comments in closing the debate.

The Hon. NICK XENOPHON: I support the second reading of this bill. It deals with a number of matters that have arisen as a result of representations made by legal practitioners. The Legislative Review Committee has looked at this matter quite comprehensively and I note the contributions in broad terms on the issue by the Hon. John Gazzola and the Hon. Angus Redford. I have previously spoken on this issue in the context of disallowing regulations made under this legislation on 15 July 2003 with respect to the anomalous position that legal practitioners face in attempting to do the right thing to properly represent victims of crime. I do not propose to unnecessarily restate what is contained in the government's second reading explanation or in the contribution of the Hon. Angus Redford yesterday on this matter.

It seems that the debate will focus on the amendments moved by the Hon. Robert Lawson because it revolves around the ability of the Crown Solicitor to veto, in a sense, the ability of a victim's lawyer to get medical reports, the type of reports that can be obtained and whether additional reports can be obtained. I am inclined to support those amendments and I will listen to the debate.

It is quite telling, as was pointed out by the Hon. Mr Redford yesterday, that the legislation contains a provision that a legal practitioner is not negligent if he or she relies on certain reports. That indicates that there is an acknowledgment that solicitors who act for victims are fettered in the way in which they can deal with these matters. I understand that the rationale behind inserting this clause was to allay the concern of solicitors who act in these sorts of matters, and it is a jurisdiction where a handful of lawyers deal with many of the claims, for which I commend them. I know that people such as Matthew Mitchell, Koula Kossiavelos and Russell Jamison, who practise extensively in this field, do so at an hourly rate of remuneration that is well below the Supreme Court scale of costs, and they have done so for many years. They are very committed to their clients and to getting the best result for their clients.

I am concerned that, whilst this legislation is an improvement on the previous position, it unnecessarily restricts the right of practitioners to obtain reports in order to properly represent their clients, to put their claims forward and to formulate a claim in a way that does justice to their clients. I know that this government has been pushing hard the whole issue of justice for victims of crime, and to restrict the right of victims' representatives to obtain the relevant information, reasonable information, compounds the injustice to victims in the context of these claims being dealt with properly.

I understand the government's position that the fund is limited, that there are limited resources to deal with this fund, but this relates to an issue of procedural fairness, that the victims ought to have an opportunity to obtain what is reasonable. In committee, I intend asking my colleague the Hon. Mr Lawson how he believes these amendments will work. I query whether there ought to be an overarching provision as to reasonableness. At the moment, the taxing officers of the court have an ability to knock out claims for costs generally in the civil jurisdiction if there is an unreasonableness in terms of a report that has been obtained, and the like. That ought to be explored in the context of the committee stage.

Belatedly, I disclose again that I am a legal practitioner, but it has been many years, I think, since I represented someone in a criminal injuries compensation claim. I usually refer them to some of the lawyers mentioned who specialise in this field. With those words, I support the second reading of the bill but I believe that the amendments moved by the Hon. Mr Lawson have some merit.

The Hon. T.G. CAMERON: I indicate my support for the second reading. When did this bill come into the chamber?

The Hon. R.D. Lawson: This week.

The Hon. T.G. CAMERON: When this week?

The PRESIDENT: On 1 December.

The Hon. T.G. CAMERON: And we are expected to deal with this bill this week?

The Hon. P. Holloway interjecting:

The Hon. T.G. CAMERON: I just want to know when the bill was introduced into the council this week and I want it recorded. We are expected to deal with it in three or four days. Is that what you are saying?

The PRESIDENT: It arrived in this council on 1 December, in answer to the honourable member's question.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank members for their contribution to the debate on this bill. The Hon. Mr Redford asked about schedule 2 on page 8, which provides that practitioners are not negligent in relying on the reports of general practitioners. He asked why this was necessary and foreshadowed a possible amendment to remove it. The government agrees that it is improbable that a practitioner could be held negligent for doing just what the regulations contemplate should be done, and on that view the provision may be unnecessary. The reason for including it is simply that some legal practitioners expressed to the government a fear that they could possibly be held negligent.

The clause is therefore intended to comfort those practitioners. The honourable member quoted from a letter written by a legal practitioner and asked whether the Attorney-General would give consideration to accepting counsellors' reports, reports from Yarrow Place and others as corroborative evidence of the commission of a crime in the case of child victims of sexual abuse who are not able to obtain convictions against the alleged offenders. I understand that the member was speaking in the context of the exercise of the Attorney-General's discretion to make grace payments. That discretion is exercised case by case and any material that the

victim submits will be considered on its merits. That can include any reports of the kind mentioned. Whether such reports can be treated as corroboration of the evidence will depend on what they say.

The honourable member also noted that on 17 September 2003 he had asked a question about the victims in the bodies in the barrels case and was still awaiting a reply. I apologise for the delay and can now answer that question. To remind members, the question was in two parts. First, the Hon. Mr Redford asked:

> Will the Attorney-General direct the Crown Solicitor's Office to proceed, with a reasonable haste, to deal with the claims by the victims of those crimes?

The government understands this to be a reference to claims by family members of the murder victims for criminal injuries compensation (and I note that the member nods). The member's question assumed that the practice of the Crown Solicitor has been to defer dealing with applications for compensation until the conclusion of the criminal prosecution. It implied that, even now that there is a verdict, payments would still need to await the future determination of the Haydon case.

There are some 38 claims of which the Crown is presently aware arising from the bodies in the barrels murders. The position is that the previous government had directed the Crown that these cases should not proceed to the entry of judgment pending the outcome of the criminal proceedings. There are two reasons for this. One is that while criminal proceedings are on foot one cannot be certain what the outcome will be. For instance, in the bodies in the barrels case the prosecution alleged that one Suzanne Allen was a murder victim but the jury was not persuaded of this.

In fact, in the past (and unrelated to the bodies in the barrels case), there have been one or two instances when the Crown, anxious to assist persons identified as victims, has made compensation payments only to find that prosecutions have failed because it could not be established that the death occurred other than by natural causes. In those cases there is then the problem of whether to seek to recover the payment from the claimant. Where proceedings are pending, therefore, the former government took the view that it was wise not to make final payments of compensation but to await the verdict. The present government also thinks this prudent and has not countermanded that direction.

The second reason is that it is a requirement of the act that an offender, if identified, must be served with the proceedings and is liable to repay the fund any compensation awarded. The Crown could not, under the old act, recover from a known offender if the Crown made voluntary payments to the victim without the offender's being a party to proceedings and consenting to the payment. Given that some persons had been charged with offences, the former government considered it prudent to preserve whatever prospects of recovery the fund may have by awaiting the resolution of the criminal case, and again the present government does not disagree.

This is not to say that compensation claims could not advance at all in the meantime. Claims did advance in that, where possible, the victims were invited to formulate their claims, and negotiations were conducted to try to reach agreement on a fair compensation figure. In a number of cases that agreement was reached. However, to preserve the right of recovery, the entry of judgment in favour of the victim and the payment of compensation had to await a conviction. Now that there have been convictions in several cases, final consent orders have been recorded.

Further, the direction did not prevent the making of interim payments of compensation to victims in necessitous circumstances as contemplated by section 11(3) of the act. Such payments were made at the request of the victim in 10 cases—for example, for funeral expenses and for pain and suffering. Now that there have been convictions, there is no legal obstacle to completing these claims. Of the 38 pending claims, 25 claims are yet to be formulated by the claimants and, in some instances, the Crown had invited formulations as far back as last year. There are four matters on which the Crown has made settlement offers and is awaiting replies. Thus, the Attorney-General has not been able to substantiate the imputation of any unreasonable delay on the Crown's part. In the absence of any unreasonable delay, the government does not consider any direction to the Crown is needed. Secondly, the honourable member asked:

> Will the Attorney-General ensure that he exercises any jurisdiction he may have in favour of the victims in this tragic case?

The government takes the reference to the Attorney-General's jurisdiction to be a reference to the exercise of the statutory discretion to make grace payments from the Victims of Crime Fund. However, as there have been convictions in these cases, it may be that there will be no such applications because the victim can rely on a conviction to found a claim for statutory compensation in the ordinary way and may not need to ask for an act of grace. Grace payments are more sought in cases where, for reasons that do not reflect adversely on the victim, there has been no conviction. If there were, however, to be any applications for grace payments, the Attorney-General would, as usual, consider each such application individually on its merits.

I note that the amendments to the bill have been filed by the Hon. Mr Lawson. The government has considered those amendments and I intimate at this point that it will not support them. This bill has been considered by the Law Society and is supported by the society. If it contained any unfair restrictions on the access of victims to compensation, I feel sure that it would not have the society's support. The society has urged the implementation of the bill as soon as possible. I intimate that the government considers the bill satisfactory in its present form and that, should the amendments proposed by the honourable member be incorporated, the bill could not be supported by the government.

The government is prepared to discuss any amendments which improve the bill without reopening the loopholes which allow unnecessary reports to be obtained and which do not create an unacceptable drain on the victim's funds. Whilst we make this offer to consider other amendments, I note the time remaining to the parliament this year and the small likelihood of reaching a resolution before the summer break. I again thank honourable members for their contribution to the debate.

Bill read a second time.

In committee.

Clause 1.

The Hon. A.J. REDFORD: I want to make a couple of comments but in so far as my amendments and the government's response to them go, I will talk on those at a later stage. I thank the Attorney and his staff, who obviously put some time and effort into responding to my questions within a short time. The minister may recall that yesterday I made a number of assertions and, in particular, I asserted that the figures presented to parliament earlier this year in so far as the Criminal Injuries Compensation Fund is concerned do not

reveal or disclose any spike in the level of payments. I have done my own private analysis of the figures, which I publicly disclosed, which indicates that this scheme is not under any significant financial pressure. I note the minister in his response did not deal with that assertion, so am I to assume that the result of my private analysis that the scheme is not under any significant financial pressure is a reasonable one?

The Hon. P. HOLLOWAY: I am advised that there is no spike in payments, as the honourable member referred to it. So, in that sense, my advice is that it is not under financial pressure.

Clause passed.

Clause 2 passed.

Clause 3.

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

Page 7, lines 2 and 3—

Delete 'the Crown Solicitor has given prior agreement' and substitute:

(i) the Crown Solicitor has given prior agreement ; or

(ii) the court is satisfied that the report of more than one expert in the specialty is necessary to provide the court with the evidence required for the determination of the matter;

I dealt with this in some detail in my second reading contribution. I note that the Hon. Nick Xenophon had some questions. Yesterday, I endeavoured to pre-empt his question and I still got it any way; so, I will try it again today and see how I go. Our amendment does not seek to deal with a free negotiation period, which is what the government is attempting to do in terms of the securing of costs of a report. That was done for a specific reason, that is, generally speaking, when the parties negotiate an outcome in criminal injuries compensation, the costs are agreed.

What we are trying to do here is to provide some degree of understanding by the parties, the Crown and the claimant's lawyers about the parameters within which they should negotiate. The basis upon which the parties would negotiate would be a determination as to whether or not a court could be satisfied that the report was necessary to provide the court with evidence required for the determination of a matter. In terms of that negotiation, obviously, that would turn around and, if there was a discussion on the point, the applicant would say, 'Well, look, that report was necessary for you and us to resolve the matter. If we do not want to settle it on that basis and there is no settlement, ultimately, it will go to a court hearing.' That sets out the parameters upon which the parties would negotiate a position. As I understand it, and I was not directly involved, that was based upon the advice of parliamentary counsel, and I think that is pretty sensible advice.

The Hon. P. HOLLOWAY: This clause in the bill provides that the fund will not normally pay for reports for more than one expert in the same specialty. This is a reasonable and sensible provision. There is no need for reports from, say, two different psychiatrists or two different orthopaedic surgeons about the same injury. Shopping for a more favourable opinion should not be at the fund's expense. If the victim's lawyer has some proper reason for seeking opinions from more than one expert in the same specialty, he or she should put this request to the Crown explaining why.

The Crown can commit the fund to pay if there is some proper reason, otherwise it is up to the victim whether they wish to obtain multiple reports in the one specialty, but the fund will not pay. This provision does not impose any unfair restriction on the victim proving his or her case through proper evidence. As far as the government is aware, the Law Society does not take exception to this provision and the amendment is opposed by the government.

The Hon. A.J. REDFORD: Before other members make up their mind, perhaps I can put a quick response to that argument. The opposition has no problem with people not being paid for second and third medical reports if they are repetitive. I am not sure that the government has read the clause. The test is whether or not a report was necessary to provide evidence for the determination of the matter. If three reports are saying the same thing, it is highly likely that a court will say, 'Well, the other two reports were not all that necessary to determine the matter. It could have been determined on the first report.' I really do not understand what the government is getting at there.

Secondly, we have a strong objection to these requests going to one of the parties to the claim. The government was invited to give us other examples where this sort of situation has occurred and, to date, we have not heard one. In fact, when he gave evidence, the Attorney-General was asked whether he could think of any other scheme on this planet which says that one of the parties can control what evidence the party can have in terms of trying to resolve a matter; and we on this side of the chamber are still awaiting this precedent. That is the second issue.

The government says that it is up to the victim as to whether or not they go for other reports. That is what we ascribe to, too: it is up to the victim and, if it is reasonable and necessary to assist in the determination of a matter (whether by a court or by negotiation), that victim ought to be entitled to do that. I note with some interest the government's response that it will pull this bill over a clause that says that victims are allowed to get evidence and a court can determine whether or not it is necessary for the determination of the claim. If that is what the government is saying, seriously, then everything we say about the government's bona fides about caring for victims of crime is confirmed. And, quite frankly, coming into this chamber and making threats along those lines does the Attorney and the government no good.

The Hon. P. HOLLOWAY: First, it is quite wrong to suggest, as the Hon. Angus Redford did, that the government is seeking to control evidence. No-one is controlling evidence: it is a matter of who pays for it. If people want to start shopping for a more favourable report, that is their business, but why should the fund pay for it? That really is the essence of the question. In relation to the latter point made by the honourable member, I am just simply providing the committee with the government's views on this. The government believes that it would be unacceptable if this amendment goes through. That is our opinion. We are not threatening anyone: I am simply giving a statement of the government's view on this matter so that members of the committee are aware of it. There is no threat: it is a simple statement of our position.

The Hon. IAN GILFILLAN: The Democrats will support the amendment. I do not see any reason why this parliament should not keep a close watch on the actual implementation of this. It is a relatively new process in any case. If this appears to have opened an area of potential abuse or unacceptable draining of the fund, the government will find a very sympathetic parliament to revisit the matter. But, certainly, we have not seen any argument that is persuasive that this rather modest amendment will open the floodgates of increased, highly expensive reports coming into the process.

I have heard it indicated that if the court is satisfied that a report of more than one expert in the specialty is necessary that the court will almost certainly, as a knee jerk, grant that approval. That is an opinion. I am not persuaded that that is the case. I have some details of a scenario that has been provided to me by Mr Jamison. I regard his observations as relative to this amendment. Mr Jamison states:

> There are two very clear scenarios that come to mind when a victim of crime presents to a lawyer seeking assistance in getting compensation. It is very rare that they walk in with a report in hand. Typically they would say, 'I have not been well since the event. I have been going to victim support, seeing a social worker but I still can't sleep at night. I feel sick all the time. Can you help me to make a claim?' It is important to note that a social worker will be assisting the person as best they can but usually without a formal diagnosis. The two clear possibilities are: the victim goes to a GP and tells their story and the GP prescribes a medication to assist with the person's sleeping problems. The GP makes a report, 'This person presented with depression, medication prescribed.'

I observe that many victims may not even have a GP and, if they do, the GP often does not know them well, so that to rely entirely on a GP being able to give an accurate assessment, I think, is unrealistic. I will return to Mr Jamison's observations. He goes on to say:

> Alternatively, the victim goes to a psychologist or psychiatrist who interviews them, and puts them through a battery of tests. The outcome of this process is a professional diagnosis and a recommended treatment.
>
> How can this affect the outcome for the victim? Firstly, there is a vast difference in the amount of compensation that is payable to assist the victim. For a diagnosis of depression, a typical payout will be between $1 500 and $2 500. Where a psychologist or a psychiatrist has diagnosed chronic post traumatic stress disorder the compensation to the victim will be of the order of $7 500 to $11 000. Clearly this is a vast difference for the victim.
>
> The Crown may grant funds for testing by a psychiatrist but I have been advised that only one case of three recent cases was accepted. In this case there was no GP available because the person lives in a very remote area, and the victim was already being treated by a visiting psychologist. All other cases were refused.
>
> When legal practitioners are seeking the best outcome for their clients, it is understandable that they are not comfortable with a Bill that prevents their clients from having funded access to the medical assistance that may manifestly change their compensation outcome.

I find Mr Jamison's observations of value in attempting to wrestle with what is a fair process. I believe that the Liberal amendment goes closer to a fair process than does the bill.

The Hon. NICK XENOPHON: Just to clarify my position, I support the amendment moved by the Hon. Angus Redford and filed in the name of the Hon. Robert Lawson. I believe that it is a fairer outcome. I do not believe that victims of crime should be treated as second-class citizens in the context of this sort of litigation. For those reasons, I support this amendment.

The Hon. R.D. LAWSON: I rise very briefly to indicate, from my point of view, a justification for this amendment. It has been ably described by my colleague, the mover, the Hon. Angus Redford. The present clause provides, under 'disbursements', that a legal practitioner cannot recover certain costs unless the Crown Solicitor has given prior agreement. We believe that that is one occasion when disbursements ought to be recovered, namely, when the Crown Solicitor gives prior agreement. We also believe that there ought to be another mechanism, and the Crown Solicitor ought not be the only arbiter of whether it is appropriate in the circumstances of a particular case for a particular disbursement to be recovered. Accordingly, when more than one report is obtained from an expert, the Crown Solicitor may give his approval or, if the Crown Solicitor does not give it, the court is satisfied that a report from more than one expert was necessary to provide the court with evidence.

Similarly, in the case of reports from others, it will be either the Crown Solicitor giving prior agreement or satisfaction by the court that the additional report is necessary. We believe the court would exercise that power appropriately and that the resources of this fund will not be frittered away in the payment of inappropriate disbursements. I am indebted to my colleague for the able way in which he has presented this particular case, and to the Hon. Nick Xenophon and the Australian Democrats for their indications of support.

The committee divided on the amendment:

AYES (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. (teller)
Reynolds, K.	Ridgway, D. W.
Schaefer, C. V.	Stefani, J. F.
Stephens, T. J.	Xenophon, N.

NOES (7)

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

Majority of 7 for the ayes.

Amendment thus carried.

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

Page 7, lines 4 to 13—
Delete paragraph (c)

I note that this amendment is consequential upon the previous amendment.

The Hon. P. HOLLOWAY: The government strongly opposes this amendment. The clause as printed provides that the fund will pay for the cost of reports from doctors or dentists but not normally for reports from people who do not have medical or dental qualifications (that is, allied health practitioners). The reason is that, although allied health practitioners may help the victim to recover from the injury, they are not as well qualified as medical practitioners to give expert opinion on the diagnosis and prognosis of an injury.

If a report from an allied health practitioner is tendered to the court and a conflicting report from a medical practitioner is also tendered, the court is very likely to prefer the opinion of the medical practitioner. There is no value in the fund paying for reports that will not be relied on by the court. Medical and dental practitioners can, in general, provide the evidence the victim needs. This is not to say that allied health practitioners do not help victims recover—they do. The reasonable cost of treatment by an allied health practitioner is claimable as part of the victim's compensation. There is no quarrel with that. The bill deals only with the question of whether the fund should pay for reports from these practitioners. The government believes that the answer should ordinarily be no.

The issue for the court is whether the victim has suffered an injury—that question is a medical question which should be answered by medical evidence. The bill, however, already provides for the possibility of a case in which an allied health practitioner can provide necessary evidence that cannot be provided by a medical practitioner or dentist. This situation can be dealt with either by seeking the Crown's agreement for the fund to pay or by an application to the court for an order. If the court is persuaded that the report of a medical

practitioner or a dentist will not provide the necessary evidence, it can order that the fund pay for the report of an allied health practitioner who can provide that evidence. Therefore, there is no unfair obstacle in the way of the victim presenting the necessary evidence to prove the claim. The effect of the proposed amendment would be to sweep this away and leave the payment of allied health reports to the discretion of the court in every case. The government opposes the amendment.

The Hon. A.J. REDFORD: The government, in that explanation, misses the point entirely. The previous amendment, in the way in which it is drafted, covers the field both in terms of reports from medical practitioners and reports from persons not registered as medical practitioners. Therefore, the previous amendment that we carried enables the court to assess whether or not it is reasonable in the circumstances. With respect to the government's position, sometimes that is the case. I can think of two examples. There are many occasions, particularly where people lose their teeth or have facial injuries, where it is only a dentist who can assess the long-term consequences. It is only a dentist who can say, on many occasions, where you have injuries to the mouth and teeth, when a person is likely to need dentures or partial dentures. It is a dentist who will provide the most assistance in determining the cost of that.

Secondly, in relation to some issues, the evidence of a psychologist is probably more valuable than a lot of evidence given by medical practitioners. I know a number of cases, some of which I have been involved in, where the judge preferred the evidence of a psychologist over and above that of a psychiatrist. That is not uncommon. With those few words, I urge members to support our position, because our position was covered in the previous clause, which enables a court to consider it in these terms:

> A legal practitioner may not recover the cost of obtaining a report relating to a victim. . .
> (b) in the case of a report from more than one expert in the same specialty, unless. . .
> (i) the Crown Solicitor has given prior agreement; or
> (ii) the court is satisfied that the report of a medical practitioner or dentist would not provide the court with the evidence necessary for the determination of the matter.

There might be occasions when you do not even go to a medical practitioner but go straight to the dentist. I had a couple of matters like that—only minor matters—where you just go straight to a dentist. It is also covered by the next amendment, which is to clause 3 page 7 after line 39, where we insert:

> in the case of any other report unless
> (iii) the court is satisfied that the additional report is necessary to provide the court with the evidence required for the determination of the matter.

So, we take it out of the hands of the Crown Solicitor and give it to a court to assess, which is the way it is done in every other jurisdiction.

The Hon. IAN GILFILLAN: I have two observations. While the minister and his advisers are diligently checking the voracity of the Hon. Angus Redford's assessment of the impact of his amendment, I indicate that I would be influenced to a certain extent by what the minister actually tells the chamber about that. I am concerned about the second amendment because it opens the field to tarot card readers who are regarded as extreme contributors to this field. I am concerned that psychologists are not being given the same recognition as doctors and dentists, which they deserve in the circumstances. I believe that psychologists' reports can be very useful and often considerably cheaper than psychiatric reports. The reason that I am sympathetic to this second amendment is that the deletion of (c) appears to make it easier for a psychologist's report to be acceptable and paid for by the fund.

The Hon. A.J. REDFORD: I would like to clear up a point for the benefit of the honourable member. If our amendment is lost, I think that our next amendment would be lost as a matter of consequence. Our next amendment would make the law read as follows:

> A legal practitioner may not recover the cost of obtaining a report relating to a victim: (d) In the case of any other report—

That is tarot card readers and people who fall into that category—

> unless—(iii) the court is satisfied that the additional report is necessary to provide the court with evidence required for the determination of the matter.

If it were a tarot card reader, I would be highly surprised if the court came to the conclusion that it was the necessary report and, in those circumstances, it would disallow the fees. However, if it were a dentist or a psychologist, the court would make an open assessment about the validity of the claim for costs. We are not confining it to any specific field but, certainly, the more extreme ones are dealt with. The difficult one has always been chiropractors. I hope this assists the honourable member to understand where we are coming from.

The Hon. NICK XENOPHON: I indicate my support for this amendment, principally because I believe that unless this amendment is passed, the situation will arise whereby solicitors or representatives of victims of crime will need to get the permission of the Crown Solicitor for psychologists' reports. I think that would be unfair in the many cases where victims of crime are being assessed by psychologists. A psychologist is not, as I understand it, a medical practitioner for the purposes of the act. On that basis, I support the amendment.

The Hon. A.L. EVANS: Family First opposes this amendment. I believe that the other amendments introduced by the opposition are appropriate. However, this amendment creates the potential for abuse by victims. If new subclause (c) is removed in its entirety, victims will be able to recover the costs of any report which is not medical or dental. It will not matter that the report is entirely irrelevant or of no use in the proceedings. The provisos contained in subclause (c) are adequate safeguards in ensuring that the costs of some non-medical and non-dental reports will be recovered. I do not wish to support a blanket allowance for the recovery of costs for any non-medical or non-dental report.

The Hon. A.J. REDFORD: I would like to respond to the Hon. Andrew Evans' contribution. It does not provide blanket payment to non-medical specialists. If the plaintiff or the applicant can demonstrate that it was important for the purposes of the claim, the court can allow it; but if they cannot, the court will not.

The difficulty with the position taken by the Hon. Andrew Evans is that, if he rejects this amendment, the consequential response would be also to reject the next amendment, because it would enable the principal of the Crown to decide whether or not it is paid without any reference to an independent third party to make a judgment. It is a little like Collingwood playing Brisbane in a grand final with Buckley as the umpire. On this side of the chamber, we fail to see how that would work.

The Hon. R.D. LAWSON: I think that the Hon. Andrew Evans has misunderstood the intended effect of this amendment, which is purely consequential upon the amendment that has already been carried and anticipates the amendment that my colleague will move in a moment and which again is consequential. The same standard is applied here as was applicable in the previous amendment, namely, that either the Crown Solicitor will agree, or, if the Crown Solicitor does not agree, the court can rule.

The first amendment covered reports from more than one expert. Paragraph (d), if carried, will provide a mechanism in every other report, whether it be a medical report, or a report from a chiropractor, a chiropodist, a podiatrist, or a psychologist. The same test will apply, namely, the Crown Solicitor can agree or, if he does not, the court has to be satisfied that it was necessary in the circumstances of a particular case. So, this is truly a consequential amendment. If the honourable member supported the carriage of the first amendment, one hopes that he will also support the third. So, to be consistent, he should support this second amendment.

The Hon. P. HOLLOWAY: I do not know that there is much that I can say, other than to repeat my original comments. The clause, as printed, provides that the fund will pay for the costs of reports from doctors or dentists, but not, normally, for reports from people who do not have any medical or dental qualifications. I repeat the point that I made earlier: if a report from an allied health practitioner is tendered to the court and a conflicting report from a medical practitioner is also tendered, the court is very likely to prefer the opinion of the medical practitioner. The Hon. Angus Redford claimed that that may not be the case, although he did not suggest whether the cases of which he was aware that opposed that rule were in relation to criminal injuries compensation, or some other matters.

However, in relation to criminal injuries compensation, one would expect that this would be the case, where the medical practitioner opinion would be referred to. It is not that other allied health professionals cannot provide useful treatments in helping the victims recover; they do. However, this bill is really dealing only with the question of whether the fund should pay for reports from these practitioners. The government believes that the answer should ordinarily be no. In the government's bill, there is a provision for the legal practitioner to seek from the court, if it is satisfied that the report of a medical practitioner or dentist would not provide it with the evidence necessary for the determination of the matter, to recover the cost. So, the bill has that provision if the legal practitioner wishes to recover costs in those cases.

However, we are talking about what should be the ordinary rule. The exceptional case is allowed for, but the ordinary rule should be that, with these allied practitioners who are treating victims rather giving expert opinion, or having the capacity to give expert opinion on the diagnosis and prognosis of the injury, the government's bill, as it stands, is a sensible course of action.

The Hon. IAN GILFILLAN: Will the minister indicate whether he sees that there would be any restriction in leaving paragraph (c) in on the acceptance of a psychologist's report, vis-a-vis reports from a GP or dentist?

The Hon. P. HOLLOWAY: We have simply treated psychologists as any other allied health practitioner. That has been the construction of the bill. I point out that it may well be that psychologists' reports are not necessarily cheaper. But, I suppose that if one had a psychiatrist's report—

The Hon. A.J. Redford: They're not.

The Hon. P. HOLLOWAY: They're not necessarily cheaper. If one is to prefer a medical opinion over a psychiatrist's opinion over a psychologist's opinion and the other is more expensive, why would the fund provide costs in that situation? That is really the issue.

The Hon. IAN GILFILLAN: I admit confusion, because it seems to me that the third amendment that the Liberals have on file is dealing with 'in the case of any other report', and they are allowing that, if this amendment is satisfactory, 'any other report' will be cost recoverable if the court is satisfied that the additional report is necessary to provide the court with the evidence required for the determination of the matter.

I can understand that that could embrace a psychologist's report. I do not see any argument to refute the fact that that could embrace a psychologist's report, but it would have gone through the filter of what the court regarded as being acceptable or not. I am confused why so much is hanging on whether paragraph (c) stays in or not.

An honourable member interjecting:

The Hon. IAN GILFILLAN: But if paragraph (c) stays in as follows:

> . . . in the case of a report from a person who is not registered as a medical practitioner or dentist—

that could embrace a psychologist. The cost will be recoverable if:

> . . . the Crown Solicitor has given prior agreement; or
>
> (ii) the court is satisfied that the report of a medical practitioner or dentist would not provide the court with the evidence necessary for the determination of the matter—

It seems to me that that is achieving very close to the same aim that the third amendment that the Liberals are intending to move would achieve anyway. I cannot see any difference.

The Hon. R.D. LAWSON: I will endeavour to explain for the Hon. Ian Gilfillan. The deletion of paragraph (c) is purely consequential, and the subject matter now in paragraph (c), which is reports from what we might term 'allied health professionals', will be dealt with entirely in paragraph (d).

The Hon. IAN GILFILLAN: If it can be dealt with in paragraph (c), why should it not stay in (c)?

The Hon. R.D. LAWSON: It is a matter of drafting. As the honourable member will see, paragraph (d)(i), for example, contains a special mechanism in relation to settlements which does not appear in paragraph (c). If one wishes to cover the field, it is necessary only to have paragraph (d) as amended in the manner we suggest. Paragraph (c) then becomes otiose, consistent with the principle we seek to espouse, namely, that it is either with the Crown Solicitor's agreement or the court's approval. That will apply not only to double reports but to every other report, whether it is a medical report, an allied health professional's report, or any other relevant specialist. On the advice of parliamentary counsel, I can assure the committee that it is a purely consequential amendment.

The Hon. IAN GILFILLAN: I accept that explanation. I realise that it was difficult to get a grasp on the significance of the various amendments.

The Hon. P. HOLLOWAY: If paragraph (c) of the government's bill is defeated, then paragraph (d) comes into play. Paragraph (d) would provide that the legal practitioner may not recover the cost of obtaining a report unless the Crown Solicitor has given prior agreement. That is the case as it is in paragraph (c), so nothing has changed there. If the Liberal amendment were to get up in the next part, that would be part 3. Paragraph (d)(i) provides that unless:

the legal practitioner served notice in writing containing the prescribed particulars of the proposed application on the Crown Solicitor in accordance with section 7(3) of the Act but no acceptable settlement offer was within the period of 3 months after notice was served; or

I remind members that the general provision for disbursements is that provided in clause 4(1), which provides:

Subject to this clause, if—

(a) an application for order for compensation is made to the court, a legal practitioner may recover all disbursements reasonably incurred under the Act as allowed by certificate of the court.

If one looks at that general disbursement provision clause (1)(a) with paragraph (d)(i), which would apply in the case of a person who is not registered as a medical practitioner or dentist, one sees that paragraph (d)(i) would come into play, and that would obviously change the situation.

The Hon. A.J. REDFORD: With the greatest respect, I am not sure that the minister understands the practical way in which these things are run. If you could comply with paragraph (d), that is, if you do not serve your notice under section 7(3), then you are stymied. Every claim is dealt with. It is not as though anything falls outside the purview of that. I am not sure what the minister is getting at. I would prefer to get on with this matter. Quite frankly, we have had long enough.

The Hon. P. HOLLOWAY: The issue is why would the legal practitioner not serve notice under the act. Presumably that is what would happen.

The Hon. A.J. Redford: If he does not, his claim does not proceed.

The Hon. P. HOLLOWAY: Yes, exactly.

The Hon. A.J. Redford: His client does not get anything. He gets reported to the Law Society and is ultimately struck off.

The Hon. P. HOLLOWAY: Exactly. That is the point. So they will all be claimed and paragraph (d)(i) will apply.

The committee divided on the amendment:

AYES (12)

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

NOES (7)

Cameron, T. G.	Evans, A. L.
Gazzola, J.	Holloway, P. (teller)
Roberts, T. G.	Sneath, R. K.
Zollo, C.	

PAIR

Stephens, T. J.	Gago, G. E.

Majority of 5 for the ayes.

Amendment thus carried.

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

Page 7, after line 39—

Insert:

(iii) the court is satisfied that the additional report is necessary to provide the court with the evidence required for the determination of the matter.

Last time I said an amendment was consequential, I was about 35 minutes of debate wrong on that. I urge members to think that this one at least is consequential.

The Hon. P. HOLLOWAY: Consequential maybe, but misconceived. The government opposes this amendment because it appears misconceived. Paragraph (d) embodies the rule that the fund will cover the cost of other reports in two cases: one is where the Crown agrees; the other is where the victim has provided the required particulars to the Crown but no acceptable offer of settlement has been made during the three-month period for negotiation. We must remember that at this stage there has been no application to the court for compensation. Rather, during this period, the Crown is considering the claim and may make an offer of settlement.

The period is intended to be used for negotiation. The aim is to see whether the case can settle without the need to apply to the court. The amendment requires the court to decide whether the proposed other report is necessary to provide the court with the evidence required to determine the case. That question, however, can arise only when there is an application to the court. It is irrelevant in the three-month negotiation period. At this stage of the case, no-one will know whether the court will be called upon to determine the matter at all. So, the provision as it stands gives practitioners a satisfactory solution if they think that another report is needed.

If they cannot secure the Crown's agreement and the case cannot settle on the evidence provided, it is a matter of waiting until the three-month period elapses. They can then apply to the court and thereafter it will be a matter for the court to decide what disbursement should be allowed in the ordinary way, under subclause (4)(1)(a), which I just read out in relation to the previous amendment. Again, the government opposes this amendment.

The Hon. A.J. REDFORD: I thought it was consequential but we will go through it again. It is like groundhog day. Let me explain how negotiations take place, and forgive me if I sound a bit patronising. What happens with negotiations is that people—

The Hon. T.G. Cameron: Just don't take too long.

The Hon. A.J. REDFORD: I will do my best. I was looking forward to you being on before dinner. The negotiations take place in either of two ways. First, the parties have in mind the possibility that the matter will go to court. If it goes to court, the court will decide what should or should not be done in relation to the cost of these reports. Secondly, if everything is agreed, but you cannot agree whether the cost of a report is reasonable, you can settle the matter on the basis of a figure and then go off to court, if that is what one wants. I suspect that the latter possibility would be very remote and very rare, but it enables the parties to understand that everybody has the opportunity to go to an independent umpire, that is, the court. As I said to the Hon. Andrew Evans in my previous contribution, we are saying that we do not accept Buckley as the umpire in a Collingwood grand final. We want someone independent. That is all we are asking for.

The Hon. IAN GILFILLAN: I indicate Democrat support for the amendment.

The Hon. NICK XENOPHON: I support the amendment. It is consequential and otherwise it would unduly fetter the rights of the representatives of the victim to pursue the case appropriately.

The Hon. A.L. EVANS: I support the amendment. It is an interesting job trying to work out which lawyer has got it right!

The Hon. P. HOLLOWAY: The scale of costs for disbursements under the existing legislation is as follows: if an application is made to a court, a legal practitioner may recover all disbursements reasonably incurred under the act as allowed by certificate of the court, but, if a claim is settled without an application to a court, a legal practitioner may recover all disbursements reasonably incurred as certified by

the Crown Solicitor. In other words, if there has been agreement on the compensation, it is up to the Crown Solicitor. It is obvious that the government does not have the numbers on this matter. As I said, it is disappointing that the bill has been amended in this unacceptable way, and we will have to see what happens as this bill is debated between the two houses. I will not divide on this amendment but I reiterate the point that the government opposes this amendment.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

LOCHIEL PARK

Adjourned debate on motion of Hon. Carmel Zollo:

That the Legislative Council congratulates the government on retaining 100 per cent of the open space at Lochiel Park,

which the Hon. T.G. Cameron had moved to amend by leaving out all words after 'Council' and inserting the words:

commends SPACE, Mr Joe Scalzi, member for Hartley, and the Hons Nick Xenophon, Andrew Evans and Sandra Kanck, MLCs, for their contribution in maintaining pressure on the government to honour its pre-election promise to retain 100 per cent of Lochiel Park and that it congratulates the government for honouring 70 per cent of that promise.

(Continued from 26 November. Page 694.)

The Hon. T.G. CAMERON: I usually do not enter the debate on these congratulatory motions, which we often see put up in private members' business. However, when I saw this motion standing in the name of the Hon. Carmel Zollo congratulating the government on retaining 100 per cent of the open space at Lochiel Park, it seemed such a nonsense—in fact, it is just an outright lie—I felt disposed to have a look at exactly what happened at Lochiel Park. I am the first one to concede that I did not personally take an interest in the matter and I do not think that I received any correspondence on it. Be that as it may, I thought that I would have a look at what happened, because I recall that other members of parliament, Joe Scalzi and the Hon. Nick Xenophon, had mentioned Lochiel Park to me in the past.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: I do not know about incessantly but it was certainly mentioned. My amendment seeks to put the record straight and to accurately represent what happened at Lochiel Park. The government did not retain 100 per cent of the open space at Lochiel Park; it retained 70 per cent of that open space, and my amendment congratulates the government on honouring 70 per cent of its election promise. My amendment also recognises the contribution made by a number of members of parliament who contributed, some more than others, namely, Joe Scalzi, the Hon. Nick Xenophon, the Hon. Andrew Evans and the Hon. Sandra Kanck.

I can understand why the Hon. Carmel Zollo would move a resolution congratulating the government on retaining 100 per cent of the open space at Lochiel Park because it perpetuates the myth—or, if you like, the lie—that that is what the government—

The PRESIDENT: I am becoming a bit concerned about the reference to 'lie' because it suggests that the mover is lying. The term 'incorrect motion' would probably be more appropriate, I believe.

The Hon. T.G. CAMERON: Well, I think I have already covered the matter. It is a gross misrepresentation of what happened in relation to—

The Hon. Carmel Zollo: He is entitled to his view.

The Hon. T.G. CAMERON: Well, it is not only my view but it also seems to be the view of others. But let us go back and look at some of the history of Lochiel Park. We can go back as far as the election campaign. Quentin Black, the ALP candidate, mailed out a flier saying that all of Lochiel Park should be protected (100 per cent) and he promised, 'I will seek funds to restore Lochiel Park to revitalise the area so that it can be enjoyed by the community.'

The Hon. R.K. Sneath interjecting:

The Hon. T.G. CAMERON: I would if he did anything, but he didn't. We can look at 8 February 2002. A letter was sent out by Mike Rann (the state Labor leader) saying, 'We intend to save 100 per cent of Lochiel Park for community facilities and open space, not a private housing development as the Liberals have proposed.'

There is quite a bit of correspondence that has floated around on this matter, but the reason I wanted to enter this debate is that the government, and particularly the Hon. Pat Conlon, has been active in perpetuating the myth that the government has honoured its pre-election promise to save 100 per cent of Lochiel Park. As fond as the Hon. Pat Conlon may be of parks and gardens, I am not going to let him get away with perpetuating that myth. Only 70 per cent of Lochiel Park was saved. I do not know what the Hon. Pat Conlon had to do with it, anyway.

The land at Lochiel Park—which was formerly the subject of a Liberal proposal and was also the subject of the Hon. Nick Xenophon's Local Government (Lochiel Park) Amendment Bill 2003, introduced in this place on 19 February 2003—comprises the whole of the land in Certificate of Title register book volume 5757 folio 319 and volume 5758 folio 31. The 15 hectares of land was declared surplus to government requirements. The fragmented title was amalgamated and it was handed over to the LMC for disposal. Of that 15 hectares, the government has now decided to develop 4.5 hectares as a housing development—that is, 30 per cent of Lochiel Park will not be retained as open space but will be developed for housing.

Members interjecting:

The Hon. T.G. CAMERON: When the babbling stops. If we go back, it is interesting to look at some of the contributions that a number of members made. One can see that the Hon. Nick Xenophon was squirreling away on the issue: he sent out a number of letters and attended rallies. The Hon. Sandra Kanck also became involved in the issue. But one member of parliament who deserves recognition for the tireless work that he put in in representing people in relation to this issue is the local member, Joe Scalzi, and I place on record an acknowledgment of the hard work that Joe Scalzi does representing his electorate.

I have been around politics for probably 30 years or 40 years, and I think the two hardest-working local members that I have come across are Joe Scalzi, the member for Hartley, and the Hon. Mick Atkinson, who is the member for Spence. Both of them are extremely hard-working local members who are out there doorknocking and in constant contact with their constituents. Even though he has become Attorney-General, the Hon. Mick Atkinson was probably out doorknocking this weekend. But I place on record that it is

not very often you come across local members who dedicate and commit themselves to their electorates. Joe Scalzi and Michael Atkinson are two members of this parliament who do just that.

I have run out of time. There are a few other things in particular that I would like to say about a couple of matters, so I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 6.02 to 7.45 p.m.]

LAIDLAW, HON. DIANA

Adjourned debate on motion of Hon. J.M.A. Lensink:

That this council congratulates the Hon. Diana Laidlaw for being awarded an honorary doctorate by Flinders University for her commitment to creating a supportive climate for the visual and performing arts in the state.

(Continued from 26 November. Page 695.)

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): No-one could doubt the former minister for the arts' passion, dedication and commitment to arts and culture for the eight years she held that position between 1993 and 2002. It is important to note that this government is also passionate about and committed and dedicated to arts and culture in this state. The Premier took on the role of arts minister to give prominence to a sector that helps define South Australia. No other state or territory can claim the same history, the same track record, of nurturing and supporting the arts as we can. Carrying on that tradition, a tradition that goes back more than 30 years to the Dunstan era, our own arts minister, the Hon. Mike Rann, is ensuring that the arts reach new heights. Our Festival of Arts is poised to once more set the benchmark for what a flagship arts experience should be, and it is hitting the right mark.

Already, the festival box office has taken over $1 million—this is almost 50 per cent of its target total box office income and in excess of the target it set itself by Christmas. Our new Adelaide Film Festival has demonstrated—by its success early this year (the first for more than 10 years)—just how much there was a need for such an event. I inform the council that 30 000 people attended the film festival, which featured more than 127 films and video presentations from 30 countries. There were 47 Australian premieres and nine world premieres, with a number of sessions sold out.

In July, the Arts Summit was held at the Adelaide Festival Centre and was attended by nearly 300 arts practitioners and other industry people. The feedback was overwhelmingly positive and the first step in developing an arts and cultural policy that will have directly involved the sector itself—a first not only for this state but also nationally. The appointment of Greg Mackie as the new Executive Director of Arts SA also bodes well for the development of a more creative and inclusive arts sector. As the former minister for the arts, Diana Laidlaw appointed Greg Mackie as the chair of the Adelaide Writers' Week Advisory Committee from 1994 to 1998.

He was Chair of the Adelaide Festival of Ideas in 1998, and in September 2000 he was a member of the Adelaide Festival Centre Trust. At this point, I would also like to acknowledge SARDI Executive Director Rob Lewis who, on the same day, was awarded an honorary doctorate for his contribution to science. Dr Lewis was honoured for developing the state's and university's expertise in marine science and aquaculture. Dr Lewis has been Executive Director of SARDI since 1993 and has 29 years experience in research in South Australia, nationally and internationally. This has embraced the areas of fisheries, aquaculture, agriculture, habitat and biodiversity and natural resource maintenance and management. Dr Lewis is a member of a number of boards, including the Premier's Science and Research Council, the Australian Genomics Research Facility Pty Ltd Board and the Australian Grain Technologies (AGT) Pty Ltd Board.

The Hon. SANDRA KANCK: The awarding of this doctorate to the Hon. Diana Laidlaw, I think, is well deserved. The only difficulty in it for me is that, next time I meet her, I will have to call her 'doctor'. From the moment that Diana Laidlaw took control of the arts portfolio in late 1993 early 1994, she let her passion for this portfolio be known; and, in the process, she demonstrated very Catholic tastes. Art for her ranged from the modern to the traditional, from the high to the low, from the exotic to the banal. One of the very first things she did was to appoint a contemporary music adviser, which was the first for any government in Australia.

A couple of years later she established Music Business Adelaide which was the envy of the other states and which has recently been altered somewhat by this government. We will wait and see what difference that makes to what was a highly successful initiative. At the other end of the scale, in music she was responsible for the funding of the first full-scale production of the entire *Ring* series in Australia. I always thought the way in which Dr Laidlaw tied her various portfolios together was interesting. If members recall, as well as the arts portfolio, she had responsibility for transport, the status of women and urban planning.

She made a few links with the arts and transport, which might have been somewhat tenuous, but one of the early initiatives was poetry on the buses. People entered into a competition to find the best poetry that was written about public transport and, in fact, were encouraged to read those poems on the buses. The poems were displayed in various places as advertising inside the buses and also on small billboards. Also, seeing that little interesting crossover between arts and transport, while minister, the Hon. Diana Laidlaw supported the establishment of the New Land Gallery at Port Adelaide to promote the work of regional-based South Australian artists.

In order to accomplish that, property which belonged to her department at the Port Adelaide wharves and which was no longer required was turned over for use as the gallery. Similarly, when the entrance of the Festival Centre was being redeveloped three years ago she managed to sequester floor space in the railway station for the use of the arts. I am not entirely sure which bodies have that, but I know that, for instance, costume storage for the State Theatre Company was one of the things envisaged. So, Diana was always very creative in the way in which she handled the links between those portfolios.

In cabinet, she must have been a fierce defender of her portfolios because, while other ministers incurred cuts to their budgets, she was always able to maintain, if not increase, the budget that was allocated for her various portfolios. In the ARTS+ booklet that Diana Laidlaw launched in 1999, she revealed that, over the first six years of the Liberal government, she had been successful in having recurrent funding for the arts increased each year by an average of 2

per cent, and that was in real terms. So, clearly, she took her passion for the arts into the cabinet room and fought the battles and obviously won many of them.

In the foreword of that ARTS+ booklet, Diana makes a statement that I think sums up where she stands on the arts and shows why this particular award is so well deserved. She says:

> The arts, after all, have a unique capacity to generate new thoughts, new ways of seeing, to heal and renew.

The Democrats congratulate Diana Laidlaw on being awarded this honorary doctorate.

The Hon. CAROLINE SCHAEFER: Most things have been covered in this congratulatory motion, but I would like to add my personal and public congratulations to the Hon. Diana Laidlaw, now Dr Laidlaw. She was and still is a person of considerable commitment and passion to whatever she believes in, and certainly the arts was probably the great love of her life. She devoted an enormous amount of time and energy, as the Hon. Sandra Kanck has said, particularly into tying her various portfolios together. I am sure that many of us could recount various instances. One of her other initiatives was to display artworks, particularly from young artists, at the main transport department building in South Australia.

I think this is probably the first of a great many honours that will eventually be bestowed on Diana Laidlaw. She was quite an exceptional politician and still continues to have an absolute passion for the arts and, indeed, for political life as well. I was somewhat bemused today when one of my colleagues was speaking with her on the telephone and she demanded to know why there was still no answer in *Hansard* to a question she asked of minister Wright in I think December of last year. I guess most of us have come to understand that minister Wright answers his questions in his own good time, but certainly his method of answering has not pleased my former colleague. As I say, she still reads *Hansard* daily to check on us all.

This congratulatory motion is for her well deserved doctorate. She was a groundbreaking and passionate minister for the arts, and I would like to add my congratulations to those of the rest of the council.

The PRESIDENT: I am sorry that I cannot make a contribution myself.

Motion carried.

ELECTRICITY INDUSTRY

Adjourned debate on motion of the Hon. Sandra Kanck:

1. That a select committee of the Legislative Council be established to inquire into and report on the electricity industry in South Australia with the view to reducing the price for households and small businesses, with particular reference to—
   - (a) the effect of the national electricity market on retail prices;
   - (b) the effect of the lease of the electricity assets on the retail price, in particular the effect of distribution and network charges;
   - (c) the nature of cross-subsidies within the market;
   - (d) non-disclosure of standing contract prices committed to by retailers for the purchase of their electricity;
   - (e) the effectiveness of the Essential Services Commission Act, including the interaction between the minister and the commissioner;
   - (f) options for the future, including increasing supply and managing demand;
   - (g) service standards, including electricity supply and reliability; and
   - (h) any other related matters.

2. That standing order 389 be suspended as to enable the chairperson of the committee to have a deliberative vote only.

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

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

(Continued from 26 November. Page 703.)

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The government opposes this motion on the basis that the proposed select committee could be helpful only if members of the Legislative Council and, indeed, the public more generally, were truly educated to better understand the key issues we face in the energy sector and, in particular, the complexities of the electricity industry.

The terms of the motion, as put by the Hon. Sandra Kanck, are sweeping. Any serious investigation into the electricity industry in South Australia, based on the particular references provided in this motion, would certainly require a substantial amount of input from people with knowledge and expertise who come from a range of stakeholder positions. This will take up significant time and resources.

In speaking on this motion, the Hon. Sandra Kanck claimed that the electricity industry had not been subject to sufficient scrutiny. In fact, there is already a great deal of scrutiny of all parts of the electricity industry. When this government came to office in 2002, it established as a high priority a strong regulator, the Essential Services Commission of South Australia (ESCOSA). The ESCOSA was established with the primary objective of protecting the long-term interests of South Australian consumers with respect to price, quality and the reliability of essential services, including electricity.

In order to perform this role, the ESCOSA investigates, publishes discussion papers and releases draft and final reports on the whole range of activities undertaken by electricity industry participants who operate in South Australia. This scrutiny of the industry is conducted in a thorough manner and, importantly, in an open and transparent fashion. Scrutiny of the electricity industry also occurs at the national market level. Bodies such as the Ministerial Council on Energy, NEMMCO, NECA and the ACCC all currently have a role in scrutinising the operation of the national electricity market. There is already a large volume of information available to which the proposed select committee could turn.

While the government shares the Hon. Sandra Kanck's hope, as expressed in the wording of the motion before us, that household and small business electricity consumers will get to enjoy some relief with respect to power prices as soon as possible, we do not believe that the hope will be realised simply by setting up a select committee to help us identify what we already understand to be the problems.

The proposed select committee, were it to eventuate, would need to educate South Australians about the unique nature of our electricity demand profile and our need for further implementing demand side management strategies. Other issues that would need to be studied include increasing our access to cheaper power from New South Wales and the need for regulatory reform in the NEM, including better transmission planning arrangements. The lack of a national

emissions policy is also of growing importance to the energy sector in South Australia.

This government has been very active in addressing the key energy issues that face us. In addition to enhancing the powers of the state regulator and negotiating agreements to increase the supply of electricity into South Australia, this government is playing a key role in developing a timetable for implementation of the most far-reaching reforms of the NEM since its inception. In particular, South Australia is contributing heavily to the creation of a new and more effective NEM energy regulator that should be separate from the rule making body of the NEM. We are also heavily involved in creating a new NEM rule making body that will be more accountable to the jurisdictions that own the NEM.

Next week, the Minister for Energy is meeting with the other state ministers and the commonwealth in Perth to seek agreement on massive reforms of the NEM that will enhance South Australia's participation in the NEM. The government opposes this motion because it does not see the need to spend time and resources on discovering what many commentators have already stated: that the root cause of why South Australian consumers may pay more for power is the Liberal Party's privatisation of this state's electricity assets.

The Hon. NICK XENOPHON: I move:

Insert after 'That' in paragraph 2. the following—

'the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that'.

I indicate that I am more than willing to serve on the committee. I have spoken on the issue of electricity on many occasions, particularly in 1998, 1999 and subsequently. You would remember those debates very well, Mr President. I do not resile from the position that I took at all. However, the fact is that consumers have not been given the benefits that they were led to expect from a national market and the way the market has been structured in this state, including the process of privatisation. I do not see this motion of the Hon. Sandra Kanck as an exercise in the blame game. I acknowledge that that is not what this motion is about. It is about finding real solutions for those who have suffered as a result of the national market.

We all have an obligation, whatever our points of view on the issue of privatisation, to work together constructively in a bipartisan and non-political sense to see what we can do within the confines of the market and the way it is structured in this state to maximise the benefits for consumers to ensure that the market is there to work for them rather than the situation we have now where so many consumers, particularly those on fixed incomes, find it difficult to pay their electricity bills. There is much conjecture and contention about the way that retail prices are set. Also, there is the further issue of augmentation costs.

I will not go into a philosophical debate about current augmentation costs and the way they are structured but, clearly, there is an argument that there ought to be at least a more transparent system rather than the current unlucky dip that some developers face. Developers simply are not certain what they will cop in terms of augmentation fees. That seems to be the complaint of the Property Council and others who undertake major developments in this state, because they simply are not aware what the augmentation fees are likely to be until they are way down the track with contractual and leasing obligations and a whole range of financial commitments that they have made.

I would like to think that this committee could also look at that in terms of the confines of the motion, or at least in terms of any other matter. With those few words, I welcome the motion of the Hon. Sandra Kanck. I am very pleased that the opposition supports this motion and has been instrumental in respect of this motion. We all want the same result, that is, for South Australians to have better and cheaper access to electricity. I look forward to the deliberations of the select committee.

The Hon. SANDRA KANCK: I thank members for agreeing to deal with this motion in what has been a fairly short space of time since I introduced it only last Wednesday. I also thank the majority of members in this place who have indicated support for the establishment of this committee. Despite what the Hon. Mr Holloway has said, there has not been any comprehensive investigation of the electricity industry that includes consumer input in the way that this is intended. Obviously, there have been the technical committees, the authorities and so on that involve all of the bureaucrats, the number-crunchers and the accountants, but there has not been the sort of investigation that this committee will undertake. This investigation is very much overdue.

The committee has the task of finding out how cheaper electricity prices can be delivered to households and small businesses, particularly in South Australia. The minister has said that we need to have consumers understand the national electricity market. Of course, understanding how the national electricity market operates and delivering cheaper prices are inextricably linked. Further, it is one of the most pressing tasks facing this government and this parliament. The exorbitant price of power is clearly hurting ordinary South Australians. They have rightly expected this government and this parliament to find solutions.

For this committee to help to achieve that goal, its members will need to put past disputes behind them. The blame game is of little interest to South Australians. They want solutions not finger-pointing. Finding genuine solutions will require each member of this committee to leave their ideologies and dogmas at the door of the committee room. Logic and common sense must now be our tools if we are to achieve both a genuine understanding of the system and devise a plan for cheaper prices. I certainly am looking forward to this challenge, and I hope that other members of the committee as chosen will rise to that challenge.

Amendment carried; motion as amended carried.

The council appointed a select committee consisting of the Hons P. Holloway, Sandra Kanck, R.I. Lucas, R.K. Sneath, T.J. Stephens and Carmel Zollo; the committee have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 7 July 2004.

ASYLUM SEEKERS

Adjourned debate on motion of Hon. Kate Reynolds:

That the South Australian parliament condemns mandatory detention and the Pacific Solution as crimes against humanity.

(Continued from November 26. Page 719.)

The Hon. SANDRA KANCK: At the National Population Summit held in parliament house about a fortnight ago, there was much discussion about the quality of people that government and Business SA want in terms of population increase. I noted that they want young people; people with skills; people who are innovative and creative; people who are risk takers; and people who are determined and resource-

ful. Asylum seekers have all of these qualities. They have to be fit enough to be able to flee, and that fitness is more likely to be the case when they are young. Many of them bring children with them. Those arguing for increased population in this state are wanting more children.

These people have skills. I am aware of one asylum seeker who is a nuclear physicist. They are risk takers and they have abandoned everything in the countries of their birth to make a new home for themselves. They are resourceful. Regardless of the evilness with which people smugglers have been ascribed, these asylum seekers have found ways of tracking them down to get themselves to Australia. They are determined; you would have to be to get yourself to Australia in a leaky boat. Business SA specifically said that it does not want asylum seekers. I ask: why not?

Professor of Psychiatry at Adelaide University, Sandy McDonald, commenting on the places from which asylum seekers have fled, said:

> The people who manage to exert the initiative to escape from these nihilistic environments are people who show courage, anticipation and ability. These are qualities we value in members of our society.

Sadly, it seems that we value them only some of the time, when it suits our political agendas. Associate Professor of Law and Criminology at the University of South Australia, Rick Sarre, has observed the politicisation of refugees at various times in recent history. When the Cold War was at its height, capitalist countries warmly welcomed those fleeing from Communist countries. In the US, refugees from Cuba and Nicaragua were able to be used as proof that the countries of origin were run by despots and that the governments of these countries were corrupt. Professor Sarre states:

> But, since the end of the Cold War, very few asylum seekers have geo-political value, and they are seen to be a burden to be avoided.

The political value that asylum seekers now have is as props in fighting elections, turning them into 'the other', the person who is different, the person who cannot be trusted, creating fear where there is no need for fear. Our Prime Minister has played up that fear by claiming that our borders are under threat. The fact is that we, in Australia, do not have a crisis in respect of border protection. In 2000, 19 500 people sought asylum in Australia. This contrasts with almost 178 000 in Germany and almost 92 000 in the United States. Asylum seekers are people who are desperately looking for new and better lives for themselves and their families. When did that become a crime? After World War II we welcomed the scarred survivors from Europe to our shores, ostensibly for that very same reason: they were looking for new and better lives. Then, it was considered a virtue.

In our legal system, people who have been charged with offences ranging from theft to assault, even to manslaughter or murder, are allowed freedom if bail is granted. But, for asylum seekers who have committed no crime, that opportunity is non-existent. I imagine what the Hon Robert Lawson or the Hon Angus Redford, in their capacity as lawyers, would have to say if any one of their clients was not charged with anything yet detained. They would be crying foul. Yet this is what happens to those asylum seekers who reach our shores via boat.

Not only has this practice been institutionalised by successive federal governments over the past decade but it has been proudly promoted. Imagine what the lawyers in our midst would say if any one of their clients was detained indefinitely without charge, perhaps for three years while their bail application was being considered. Why is it different for asylum seekers? Is it because they came by boat? Is it because so called 'people smugglers' arranged their passage? Australia's mandatory detention laws apply only to those who arrive in groups by boat. If you come in twos or threes by plane, these laws do not apply. This is simply illogical. If our argument is against people smugglers, why do we blame the victims and not the perpetrators? Oskar Schindler was also a people smuggler.

In the Democrats' 2001 election platform I found the following words about our current asylum seekers policy:

> Human rights principles must not be sacrificed in developing solutions to the refugee issues. The current so-called 'crisis' regarding refugees is not a crisis in protecting our borders, it is a crisis as to whether Australia will turn again inwards and backwards into a frightened and intolerant nation or whether it will be open-hearted, accepting and eager to engage the rest of the world, including those who are amongst the most suffering and disadvantaged.

Australia is a signatory to the Geneva Convention on Refugees. That obligates us to provide humane protection for all people fleeing persecution. We are failing that test again and again. This motion states that mandatory detention and the Pacific solution are crimes against humanity. The Democrats are not the only people saying this.

Earlier, I spoke about the decision of the UN Human Rights Commission that mandatory detention breaches our obligations under the International Covenant on Civil and Political Rights. The Hon. Justice Marcus Einfeld has said:

> Our system of mandatory detention is cruel and a blot on our reputation for humanity.

It is clear also that these policies breach our obligations under the Convention on the Rights of the Child. The facts I presented earlier about major depression and post-traumatic stress amongst child asylum seekers must surely shame us all. Dr Louise Newman, to whom I referred earlier, has said:

> What we are witnessing currently is a moral outrage and one that cannot be tolerated by a civil society. The abuse and detention of children constitutes a form of psychological torture that we can only condemn. Remaining silent in the face of gross violations of human rights amounts to a form of collusion.

The Democrats invite the members of the opposition, in particular, to join in our condemnation of such abuse and torture, to not collude and, in doing so, to give a strong message to the federal government that these practices are unacceptable.

The Australian government's treatment of asylum seekers is a cruel and unnecessary policy that is changing the nature of Australians from people who believe in a fair go to bigots. That is not a proud achievement. It is a policy that is hellishly expensive. It makes villains out of victims. It lessens all of us as Australians. By supporting this motion, members of this chamber will be able to demonstrate their humanity.

The Hon. A.L. EVANS: Family First has great concern for the approximately 200 children and their mothers who are held in detention centres and it appeals to the federal government to find a more humane way of handling this situation.

However, I find it difficult to support the honourable member's motion because it speaks in words of condemnation of the federal government but does not seem to provide answers to the problem. I admire the honourable member's care and passion for this cause. I ask the honourable member:

1. What is the Democrats' solution to the potentially thousands of people to the north of our shores who want to enter illegally by boat?

2. What is the Democrats' policy for these children and their mothers?

I noted some excellent suggestions in the honourable member's speech and believe that they have merit.

Family First believes that far more can be gained if the federal government recognises the need for a quicker turnover of asylum seekers so that they can be returned to their own country within a period of six months or, alternatively, be granted asylum in Australia. My desire is that the Democrats, along with the Labor Party and the Greens, introduce legislation into the Senate to that effect so that there can be a quicker resolution to the applications of asylum seekers. It is very easy to condemn any government for its actions, but we must be able to provide a better alternative. I have not heard such an alternative from the Democrats and I decline my support of this motion.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise on behalf of Liberal members to oppose the motion. In doing so, at the outset I acknowledge what I believe to be the strongly held and genuine views of the Hon. Kate Reynolds on this issue. I also acknowledge that I am sure that her views are shared by many others in not only the South Australian community but also the Australian community. At the same time, I believe that there are those in the South Australian and Australian community (and I do not direct this criticism at the Hon. Kate Reynolds) who have used and will continue to use their views on this issue as a battering ram against Prime Minister John Howard. I indicate that, having commenced a speech on this issue, the government now decides to circulate an amendment.

The Hon. G.E. Gago interjecting:

The Hon. R.I. LUCAS: No; nor am I am but, normally, you would circulate an amendment prior to the speaker's contribution. The Hon. Andrew Evans has just spoken, but the government is now circulating an amendment. Obviously, I have not had an opportunity to look at the government's amendment, nor have we had a chance to discuss it in the party room. As a party, we will have to work out how we adapt to the changed circumstances. The government has circulated an amendment of which we were not aware, so I am putting the position on behalf of the opposition, not having had a chance even to be aware of the government's position.

The PRESIDENT: Does the Leader of the Opposition wish to report progress to consider the amendment?

The Hon. R.I. LUCAS: No, Mr President. I will speak to the motion, and we will have to sort out how we will adapt to the government's alternative position. Whilst acknowledging the strongly held and genuine views of the Hon. Kate Reynolds, other members of the Liberal party and the community hold equally strong and genuine views and support the position of Prime Minister Howard and the federal government. As has been acknowledged by the honourable member, the first policies on mandatory detention were introduced in the early 1990s by a Labor government headed by Prime Minister Paul Keating.

I do not put this as an official Liberal Party position but one that I have always adopted. I am a supporter of a larger and more significant migration program than is currently engaged in by the federal government. I am also open to supporting, as part of a larger program, a larger humanitarian component which includes refugees as part of that wider program. In a recent press statement, the former minister for immigration (Philip Ruddock) indicated that the 2002-03 humanitarian program revealed that Australia had granted the highest number of offshore refugee and humanitarian visas for five years.

That was as a result of the success of the government's border control strategies, including the Pacific strategy, according to the then minister for immigration, multicultural and indigenous affairs, Philip Ruddock. In the 2002-03 program year, 11 656 visas were granted to people applying overseas under the humanitarian program. This represented 93 per cent of the total number of 12 525 humanitarian visas granted during the year. When one looks at the table, just two years ago, in 2000-01, the offshore component of the total humanitarian program, rather than being 93 per cent was actually 58 per cent.

As I said, that is not a view that I put officially on behalf of the state Liberal Party but it is certainly my personal view. I support a broader immigration program. I think it would be good for Australia and, if we can get an increasing percentage of migrants moving to and staying in South Australia, that would be good for South Australia. I would also personally be sympathetic to an increased humanitarian subsection of the total program.

Having said that, on behalf of my members and speaking in support of the Prime Minister and his policies in this area, I indicate that we oppose the motion as it has been drafted. I will not make any detailed comment about the second part of the honourable member's motion, which talks about mandatory detention and the Pacific solution as being crimes against humanity. That is extreme language. I understand that the member genuinely believes that to be the case, but the phrase 'crimes against humanity' I have most often and most usually seen associated with something like the Holocaust, the killing fields in Cambodia and a variety of other atrocities around the world. In my view, they might more appropriately be referred to as crimes against humanity because, by my definition, even if I opposed the federal government's and the federal Labor Party's policies on mandatory detention, I would not describe them as crimes against humanity or as being in that league.

As I said, there are strongly held views in this area and the Hon. Ms Reynolds and the Hon. Ms Kanck have put their point of view. I want to refer to some work done by *The Age* newspaper and *The Sydney Morning Herald* to put another point of view. I will quote at length from some of the work done by one of the leading national journalists, Russell Skelton, who is a senior writer for *The Age*. Most politicians would acknowledge that *The Age* is not known to be right wing and soft on Prime Minister Howard. It is more often described as a left wing leaning newspaper and it is critical of the federal Liberal government in a number of areas, so I put this quotation in that context.

The feature article by Russell Skelton of 23 August 2002 was headed 'Looking for the real Ali Bakhtiyari', and it states:

> The village elder was shaking with rage and shouting into the satellite phone at Australia's most enigmatic and controversial refugee: 'Ali Bakhtiyari I have never heard of you and I have lived in Charkh for 45 years. Why do you say you are from Charkh?' It was a confrontation Ali Bakhtiyari did not expect. Mohammad Hussain, a respected elder from a village in central Afghanistan where Ali Bakhtiyari claims he grew up and fled from five years ago, was barking at home from a sparse mountainside.
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> But in another twist in this complex search to discover Ali Bakhtiyari's true identity, the refugee replied no, as if sharing a confidence: 'No, I am not from Charkh but Charkh Chaprasak.' It was another astonishing shift. After always claiming he was from 'Charkh in Sahrestan'—one of the most inaccessible parts of

Afghanistan, where the Hazara people climb the mountains on mules, donkeys and roads can be nothing more than dry river beds—he was now insisting he was from the village of Charkh Chaprasak.

The only problem for Ali Bakhtiyari, and it was a big one, is that there is no village by that name in the Sahrestan district of Uruzgan province. There is the village of Charkh, which is divided into three parts, and the small town of Chaprasak with a population of 10 000, but definitely no Charkh Chaprasak. It takes two hours in a four-wheel-drive crawling along at 15 km/h over rocky terrain from where the elder was squatting in an almond grove yelling at Ali Bakhtiyari on the other side of the world.

Still clutching the phone, Mohammad Hussain was openly incredulous. 'What! You say that? Then you do not know this district at all, you are definitely not from here. Chaprasak is five hours walk from Charkh; the villages are nowhere near each other. What are you talking about? Nobody in this district says Charkh Chaprasak. Who are you, Ali Bakhtiyari?' he said, exploding in a stream of the Dari language.

In the space of just three weeks, Ali Bakhtiyari—and his personally appointed minder, Sydney-based Iranian refugee activist Cyrus Sarang—had changed the place where he said he grew up no fewer than three times. When *The Age* arrived at Charkh last week, the place where Bakhtiyari told Australian immigration officials and lawyers he came from, Bakhtiyari changed his story saying he came from Charkh Nolije. Again he got the names wrong. There is a village called Charkh and on the other side of a mountain a village called Nolije, but not Charkh Nolije (pronounced knowledge). Locals don't use the term Charkh Nolije.

The Age made inquiries at Nolije anyway, only to discover that Ali Bakhtiyari was unknown there, too. It was at that point *The Age* decided to put a series of questions to the evasive Ali Bakhtiyari through two interpreters: Nadir Saikal, who had worked in Woomera with the Bakhtiyari family, and Muhib Habibi, recruited for this assignment in Kabul. And out of a growing sense of frustration Mohammad Hussain who had volunteered to help in the search for Ali Bakhtiyari's village, also spoke to him in the hope that two people supposedly from the same area might be able to resolve the impasse.

When Ali Bakhtiyari shifted ground for the third time, and despite Mohammad Hussain's clearly stated belief that he was not from the district, *The Age* went to Chaprasak. The two-hour drive along a dusty track to the impoverished and ramshackle town turned out to be another Bakhtiyari orchestrated dead end. According to the mayor, Khadem Ali, there is no record of any Bakhtiyari, never mind an Ali Bakhtiyari ever having lived in Chaprasak. Dr Ibrahim, the town's only doctor, said he had never treated anybody called Ali Bakhtiyari or Hossain Ali (the name of Ali Bakhtiyari's deceased father). *The Age* showed photos of Ali Bakhtiyari to a gathering in the bazaar of about 400 people. Nobody recognised Ali Bakhtiyari and those interviewed said he was not from Chaprasak.

What was discovered in this remote village was a strong people-smuggling connection with Australia. In the past two years, people smugglers had successfully shipped 10 Chaprasak families, including the 15-year old nephew of Dr Ibrahim, who the doctor said was now living and studying in Brisbane. Khadem Ali said some families went to Australia because of persecution by the Taliban. Religious students had regularly driven into the town to loot shops, search for weapons, and beat and torture people. Others, the mayor said, were driven out by depressed economic conditions brought upon by a six-year drought.

The Age spent two weeks in Afghanistan investigating Ali Bakhtiyari's claim that he came from 'Charkh in Sahrestan' in the central Afghanistan province of Uruzgan. Immigration Minister Philip Ruddock has challenged Ali Bakhtiyari's background claiming his department has been told by an informant that he is a plumber from Quetta in Pakistan. Ruddock has begun moves to strip Bakhtiyari of the Temporary Protection Visa issued to him in August, 2000. He received the visa on the grounds that he was an Afghan of Hazara ethnicity persecuted by the Taliban. Bakhtiyari's wife Roqia is being held in the Woomera detention centre with her five children after her claims for asylum were rejected on the grounds that she was from Pakistan.

A three-day search in Charkh and surrounding villages and towns with two interpreters and Mohammad Jan Peicar, a primary school teacher who has taught in Charkh and Chaprasak district schools since 1992, failed to find any evidence that Bakhtiyari had lived in the area.

After showing Bakhtiyari's photo to hundreds of people and conducting scores of interviews with officials and clerics, we found nothing to substantiate his claim that he lived in Charkh for more than 30 years before escaping the Taliban and leaving Afghanistan in 1998.

Evidence gathered by *The Age* suggests both Ali Bakhtiyari and his wife contrived their backgrounds or were given false histories by people smugglers who routinely provide asylum seekers with new identities and histories to secure refugee status in Australia.

This conclusion is based on extensive research carried out on the ground in Afghanistan, which found the following:

* According to village elders, Bakhtiyari is not a name used in Sahrestan district or Charkh and its surrounding communities. Charkh cleric Imam Mausa Ansari said: 'Nobody goes by this name, there are no Bakhtiyari in our district. I know everybody and I can say definitely that Ali Bakhtiyari, or the man in this photo, is not from here.'

Scores of other people interviewed in the bazaar and local meeting places echoed the Imam's view. They also said they had not heard of any woman called Roqia, a name also uncommon in the area.

* There is no official or semi-official record to confirm that Ali Bakhtiyari grew up and married in Charkh or Chaprasak as he has claimed. A check of the Charkh register prepared by the local council of chiefs—which covers the three dispersed villages of Bala-i-Charkh (top), Wassat-i-Charkh (middle) and Panne-i-Charkh (end)—lists 800 families and 12 000 inhabitants and no Bakhtiyari. Chaprasak Mayor Khadem Ali also said his records contain no Bakhtiyaris and said that to his knowledge, nobody by that name had lived in the district.

* Despite the fact that Ali Bakhtiyari says he has lived continuously in the area for more than 30 years, he has a poor grasp of Charkh and its physical surrounds. In the conversation conducted last week by satellite phone from Afghanistan with *Age* interpreters, Ali Bakhtiyari misnamed and mispronounced the names of villages. He also appeared to have a shaky understanding of regional geography, placing the villages of Charkh and Chaprasak together when they were an estimated 50 kilometres apart. As mentioned earlier, he also incorrectly referred to the village of Nolije as Charkh Nolije, something locals said they never do. Nor could he name the three divisions of Charkh.

* Names of places, including two tea-houses and three bazaars, and people provided by Ali Bakhtiyari and Cyrus Sarang to *The Age*, could not be found. Local villagers said that tea-houses and bazaars do not exist. Out of the 10 names supplied of people living in Charkh who could verify Ali Bakhtiyari's identity, none was found and only two of the 10 names were common to the district. They were Baqir and Charman Ali, both of whom villagers said were living and working in Iran. The wife of Charman Ali, who lives in Nolije, said she had never heard of an Ali Bakhtiyari and did not know of anybody fitting this description.

There are other serious inconsistencies in the personal histories offered to the media and immigration authorities by Bakhtiyari and his wife. Ali Bakhtiyari said he sold a wheat crop to partly pay people smugglers. But because of a six-year drought, local farmers said they had not produced a crop of commercial value in years and the area is dependent on World Food Program and Oxfam food assistance.

He also said the Taliban forced his brother Ghazanfar to drive his truck for them before he fled to Iran. Villagers said that five trucks were seized by the Taliban, but they knew the owners involved. They did not include Ghazanfar Bakhtiyari. Roqia's claims are just as groundless. She claims she married Ali at the age of 15 and lived a life in seclusion, not knowing such basic things as the currency and the names of nearby towns and villages. But her descriptions of life in Charkh are seriously at odds with evidence and descriptions gathered from villagers.

Contrary to what she has said, Hazara women in this district do not wear full-length burqas, but a maqnah, a type of shawl. Villagers say this practice continued throughout the rule of the Taliban. Women are not locked away; indeed, a number of women were freely interviewed for this story and on one occasion a woman asked members of *The Age* team into her house for tea.

Women said they handle money, although there is little available, and they knew the name of the currency—the Afghani. Suggestions that they might be ignorant about these matters caused amusement.

Roqia also said her family were wealthy from carpet-making, which had made it possible for her father to pay people smugglers to ship her and her then four children to Australia. Villagers in Charkh said only two families had made carpets and they stopped production four years ago. Neither family had a daughter named

Roqia married to an Ali Bakhtiyari. Another Charkh elder, Juma Ali, summed up the situation: 'We are poor people, we can only grow almonds, our land is worthless and we cannot go anywhere. Some families went to Iran 25 years ago, but the rest of us remain. Nobody has gone to Australia.'

So who then is Ali Bakhtiyari? The results of *The Age* investigation suggest he is originally from Afghanistan and definitely from the Hazara ethnic group, the descendants of 13th century Mongol invader Genghis Khan. Hazaras are Shiite Muslims and account for 20 per cent of the nation's 25 million people.

Ali Bakhtiyari told *The Age* that he left Afghanistan 'many years ago' and that he had lived for two years in Quetta in Pakistan before leaving for Indonesia and Australia. But it also appears that he may have spent time living, and possibly working, in Iran where he said his brother and mother live. The interpreters who spoke with him say his Dari contains a number of words adopted from Persian, the Iranian language, which suggested he has lived in Iran. The words include 'parwanda', which means legal case, and 'keshawarzi', a word for farmer.

Roqia said in an interview that she learned to speak Iranian as a child, which Charkh villagers said was unlikely. There is another link with Iran. The two people Bakhtiyari claimed to know in Charkh, Baqir and Charman Ali, work in Iran.

To understand who Ali Bakhtiyari is and where he may have come from requires an understanding of the turbulent 23-year history of Afghanistan's bloody wars, which caused the constant displacement of people and the destruction of homes. More than four million people, including an estimated 600 Hazara, have been driven into Pakistan, Iran and the republics of the former Soviet Union.

This outpouring of refugees has provided constant fodder for people-smuggling networks. Afghanistan's borders are porous and people move freely from country to country without IDs, or with false IDs readily purchased in cities such as Quetta. In the past seven months, 1.5 million refugees have returned to Afghanistan—most without passports.

There are literally millions of 'Bakhtiyaris' on the move. They come and go across the borders without regulation or control. Some Afghan families have lived in bordering states for 20 years or more. A significant number are genuine refugees, having fled Afghanistan because of persecution by the Taliban, the mujahideen warlords and, before them, the occupying Soviet army. Many, too, are economic migrants fed up with the carnage and looking for a new start in Australia, Canada, Europe and the US.

It is a hothouse environment for people smuggling. Escape routes set up by people smugglers tend to operate along ethnic lines. For Hazaras the channels are efficient, tightly controlled and extend to lending fellow Hazaras money if they do not have it. According to villagers in the Hazarajat area where Hazaras have traditionally been concentrated, the syndicates were at their peak just before the fall of the Taliban and around the time that Ali Bakhtiyari and Roqia landed in Australia in 1998 and 2001 respectively—before the fall of the Taliban and the war on terror.

Isaq Ali, a 35-year old Chaprasak shopkeeper, explained how the Hazara smuggling network operated. He said he decided to leave Chaprasak after the 'Talibs' robbed and burnt down his shop. After contacting a people smuggler working the district he agreed to pay $US5 000 up front and $US5 000 on his safe arrival in Australia. He was instructed by the smuggler to change his name and he applied for an Afghan passport in Kabul under a false name. The next stage of his journey took him to Quetta in Pakistan where he spent '20 days' being trained in what to say when he reached Australia, including the words that he was living 'in fear of persecution' and graphic accounts of Taliban persecution. From Quetta it was on to Karachi, where he took a connecting flight to Phnom Penh and a taxi with other asylum seekers to a local port. He boarded a boat for Australia on two separate occasions but was intercepted each time about one hour into his journey.

For each departure he adopted a different identity. He returned to Afghanistan with the help of the International Organisation for Migration in time to see the Taliban driven from power. "The first thing the smuggler tells you is to destroy your identity so you cannot be traced; this is most important. Then they tell you what to say," he said.

Asked whether he would attempt the journey again, he said: 'Of course.'

Chaprasak's Dr Ibrahim said his family decided to send his 15-year-old nephew to Australia when Taliban harassment was at its height in 1999. The boy took the same journey to Quetta, where he was given a false ID and flown to Jakarta, where he boarded an Indonesian fishing boat. Poor weather forced the boat to return to port, but on a second attempt he reached Christmas Island. After nine months in the Curtin Detention Centre in Western Australia he was granted a Temporary Protection Visa, released and sent to Brisbane where he lives under his assumed name.

Others have not been so fortunate. In the mountains near Nazarajat in the district of Pul-i-Afghanan, families are fretting over the plight of more than 60 members of their community who set off for Australia but ended up on Nauru where they have been detained for almost a year. Ayub, a local hotel owner, and his brother Marali told *The Age* that the people smuggler who organised their voyage had gone into hiding after making more than $US1 million on the deal.

He had operated out of the adjoining area of Siah Khak. 'We are very worried about our relatives because there is no way we can speak to them on Nauru. My uncle sold his house in Kabul and his carpet shop to pay the people smuggler US$5 000. He has spent another US$5 000—which he was going to pay the smuggler when he reached Australia—on keeping himself on Nauru. Now he has nothing', Ayub said. The story is all too familiar. Ayub's uncle switched identities before leaving Kabul on false travel documents for Indonesia: a new name for a new life. Asked why so many people had left the district, the 28-year old hotel owner said, 'It was for a better life.

The drought had finished them, crops had failed too many times and there was no food. Talibs were a problem, but the real reason was that there was nothing left for them; those with money had to find a better life. My uncle said the Talibs had wrecked Kabul and made it impossible to make money.' Large parts of Hazarjat, the Hazara heartland, are being kept from starvation by massive food-for-work relief program administered by Oxfam and the World Food Program. Asked if anybody was still willing to pay people smugglers for a passage to Australia, Ayub said, 'Not now.

What Australia has done to these poor people is terrible. All they wanted was a new start and now they have been put in prison. Please ask Australia to let them go, all they wanted was escape from a miserable life.' It is likely that Ali Bakhtiyari came to Australia down the same Hazara people-smuggling pipeline as Ayub's uncle, Isqua Ali and the doctor's nephew. He was most likely given a false identity, which explains why he has been at a loss to authenticate his identity and why his story is full of inaccuracies and keeps changing.

The communication with Charkh is not impossible and the people in Chaprasak have been receiving money from their relatives in Australia, so there is no reason why Ali Bakhtiyari could not prove who he is. But in this region dislocated by war and famine there is no telling where has lived and worked. In Afghanistan the records of people lie in the ruins of bombed-out office blocks. At one point in *The Age's* satellite phone conversations, Ali Bakhtiyari was asked to name the Imam and the location of the Mosque he attended when he was growing up.

An answer would have allowed this reporter, then on the spot in Charkh, to easily verify his story. Instead of answering the question, he protested that his mind was 'not so good', terminated the call and switched off his mobile phone. Ali Bakhtiyari is just another of this region's vast, shifting diaspora of 'Bakhtiyari' who, not knowing where their future will take them, have traded their names and identities for a new life.

As I said, this feature was written by Russell Skelton, a senior writer with *The Age*. I read it in full because I did not want to be accused of having quoted it out of context in any way at all. I want to refer in part, in this case (members will be pleased to know), to a story which appeared in *The Sun Herald* and which is headed 'He's from Pakistan and he used to repair our pipes.' It is an exclusive story by Matthew Benns in Sydney and Saleem Shahid in Quetta, and it is dated 28 July 2002. The article states:

Immigration minister Philip Ruddock has launched a fresh inquiry after receiving astonishing new information about the background of asylum seeker, Ali Bakhtiyari. A *Sun Herald* investigation in the Pakistani city where the Australian government claims Mr Bakhtiyari comes from, found residents who confirmed that he worked there with his brother as a plumber and as an electrician. In Quetta, reporter Saleem Shahid was armed with a photograph of Mr Bakhtiyari and reports of his case. 'Yes, I know him, he is Asghar Ali Bakhtiyari, a plumber, or was a plumber working here a few years back', said Rajab Ali, who owns a medical

store in Barnas Road where Mr Bakhtiyari ran a plumping business with his brother. 'He went abroad in search of a good future.

Whether he achieved his goal or not is another story. His whereabouts are hidden now. It is being heard that he wants to become a person of some other country—he is in search of political asylum. He now declares himself an Afghani instead of Pakistani.' Mr Bakhtiyari became a cause celebre for refugee action groups after his brother-in-law threw himself onto the razor wire at the Woomera Detention Centre in South Australia. His case prompted international outrage just over a week ago when his two young sons escaped from the desert centre and attempted to claim asylum at the British embassy in Melbourne. In the Quetta suburb of Marriabad, resident Ibrahi Hazara said: 'I am sure he belongs to the Hazara tribe.

I heard recently about him, he is in Australia and trying to settle there. His three children, including two sons and wife, had also went abroad.' Mr Bakhtiyari has five children in Woomera with his Afghani wife. School teacher, Nazar Hussain recalled Asghar Ali Bakhtiyari very clearly when shown the photograph. 'Bakhtiyari is older than me and I know him from my childhood. He used to come to our home for pipe or electric repairing.' He said that Mr Bakhtiyari had not been seen in Quetta for several years, but that his brother Sikandar Ali was still living in the Hajiabad area of the city. The plumbing shop they had run together was abandoned when Mr Bakhtiyari left four years ago and the remaining brother had turned to contract gas and water pipe fitting. Neighbour Sajid Ali Changezi said he had lived in the same street as Mr Bakhtiyari in Hajiaba: 'As far as my information is concerned, Asghar Ali Bakhtiyari has Pakistani nationality'.

I quoted about half that story. A further story appeared in *The Sydney Morning Herald* of 27 November written by Matthew Moore in Jakarta and Robert Wainwright. Without quoting the whole story (I have given the reference), in part, the article states:

A former Turkish asylum seeker who runs a Mosman kebab shop has been identified by a group of Turkish Kurds as the person who helped smuggle them to Melville Island earlier this month. Ali Cetin, an Australian citizen, who spent five months in the Port Headland Immigration Detention Centre, has admitted that, on 21 August, he was in Jakarta's Hotel Menteng 2, where people who were on the boat say they paid him a total of about US$20 000 to arrange their trip. Some of the group now say that the reason they wanted to get to Australia was for higher-paying jobs, not to flee Turkish government persecution, as several had claimed.

Members of the group say they were encouraged to make the trip by Mr Cetin, who had told them how well his restaurant was doing and convinced them that Australia was the land of riches where they could make $8 000 a month. Mr Cetin has admitted he was in two hotels in Indonesia in August and October where the Kurds, some from his home town, say they met him, but denies he is a people smuggler or that he met him. Instead he insists his trips were coincidental and that he was on holiday to meet women.

He met no other Turks and the only thing he did was hand out business cards. 'I would not help people come here to Australia. It is too hard', he told *The Herald* yesterday. The revelations about the failed attempt come as divisions have emerged in the group. Eight men now plan to stay in Indonesia, where they hope to get refugee status, while six plan to return home to their jobs and families in Turkey early next month. Asim Bali, spokesman for the six planning to return home, said through an interpreter, it was 'not true' to say the group had suffered discrimination. All 14 had wanted to go to Australia for a better economic future. He said relations between Turks and Kurds were now good although those who bought a passage on the boat had the jobs in Turkey and some owned businesses. All had hoped to make more money in Australia.

That story continues:

Ali Kazil, representing the eight hoping to stay in Indonesia, said this week that he and other members of the Kurdish population in Turkey had been persecuted and that was the reason for trying to reach Australia. He refused to give details of the persecution and provide the names or addresses of most of the group members in Turkey to verify the claims saying this would lead to further harassment. Mr Bali said he had a wife and two young daughters in Adiyaman, where most of the group came from. Mr Cetin confirmed that he was also from Adiyaman, a mainly Kurdish city, and had arrived as an asylum seeker in December 1998 on a boat with 15 others.

The Herald found him two days after getting his name from some of the 14 Kurds who were staying in a Jakarta youth hostel after being released from an immigration detention centre last weekend. They had been held there since arriving in Jakarta after the Australian navy towed their boat back to Indonesia after Melville Island was excised from Australia's immigration zone. They say they have yet to be interviewed by Australian or Indonesian police about who organised their trip. The four Indonesian crew members were also allowed to return home without being questioned, despite an anti-people smuggling agreement between Indonesia and Australia.

Members of the group identified three turks involved in the people smuggling operations—Mustafa living in Adiyaman; Mehmet, who lives in Jakarta and is believed to have spent time in Australia; and, Mr Cetin. Mr Bali said that after talking to Mr Seteen by phone when he was in Turkey in early August he had bought a plane ticket to Jakarta. He was picked up by Mehmet and driven to the Hotel Menteng. Like all the men, he had travelled on his original passport. The passports were taken by Mehmet at the hotel, although they were later used for identification at other hotels where they stayed, he said. Once at the Jakarta hotel he paid US$3 000 to Mr Cetin and US$4 000 to Mehmet. Ten men had paid substantial sums to the pair, although some paid less. Mr Bali says he spent a further US$2 000 on the ticket from Istanbul, accommodation and other expenses during the two months waiting for the boat, as did others. Four others on the Melville Island boat had arrived in Indonesia up to two years before the departure and had paid money to a fourth man, Ayup. Hotel records confirm the accounts by Mr Bali, and staff recall him and Mehmet.

The guest register at the Hotel Menteng 2 shows that Mr Cetin booked in at 5am on August 22 and took four rooms. He admitted yesterday that he stayed in the hotel, but claimed he took only one room and did not meet the Kurds or receive any money from them.

Mr Cetin also admitted returning to Indonesia six weeks later and staying for 12 days in the Wisma Makassar Hotel in Suluaesi, the town from which the Kurds set sail for Australia in late October.

The hotel receptionist, Ms Ratna, said yesterday that Mr Cetin was one of a group of eight Turks who had stayed there together from October 2 to 14. He did not provide his passport details but told the hotel he was from Adiyaman in Turkey, she said. The group had claimed they were tourists travelling Sulawesi and she was unaware that they were planning an attempt to reach Australia by boat.

On the same day, there was an article in *The Sydney Morning Herald* by Robert Wainwright. I will quote only one sentence from that article, which was another interview with Ali Cetin, the kebab shop owner. The article states:

He did not have the time and money to help run a smuggling operation and said his experiences meant he was more likely to advise countrymen not to follow in his footsteps. In fact, he had counselled his brother Mehmet, who drives a taxi back in Adiyaman, not to migrate. 'I might try to help the people go to New Zealand or Canada, but not Australia, because John Howard makes it too hard.'

The final press article to which I refer is *The Sydney Morning Herald* of 29 November. The article is headed 'Dash for Cash', and it states:

This week the people of Adiyaman celebrated the end of Ramadan in the traditional way, visiting friends and family, giving gifts to their kids and handing out sweets to all and sundry. What with the fairy lights around the city centre and the cold wind blowing off snow-streaked Mount Nimrod, it might have been Christmas. The only sign of trouble in this mainly Kurdish town was a swarm of little boys out executing each other with new toy pistols.

Adiyaman doesn't look like a Third World city, still less like a war zone. It looks rather like Europe, except down on its luck. Nevertheless, it is from Adiyaman that at least two of last month's Melville Island asylum seekers claim to have fled in fear of their lives. For several others from nearby parts of Southern Turkey, Adiyaman seems to have been a staging post. Towed out to sea again, the 14 men subsequently landed back in Indonesia and claimed that they were refugees fleeing the Turkish government's brutal crackdown on its Southern Kurdish minority.

This story elicits a smile from Adiyaman's Mayor, Abdulkadir Kirmizi, himself a Kurd and a member of an Islamic opposition party. 'Australia is seen as a country where things are better than here—better life, more freedom, better jobs, good money,' he explains almost apologetically. 'Some people go abroad and after a

while they arrest them and send them back to Turkey, so they send their son or brother to take their place.

'We are very poor here and it is a very important source of income for most families. When they are stopped, some people tell the truth and some people tell a lie just to try and get into the country, so they say they've got political problems in Turkey'. Those political problems, most Kurds now admit, are largely a thing of the past. Since 1999, the Separatist Turkish Kurdish movement, known as the PKK, has effectively ceased its guerilla operations inside Turkey.

In return—and under pressure from the European Union, which it wants to join—Turkey's government has greatly eased its security crackdown in the Kurdish region, a campaign which rights groups say involved wholesale detention, torture and disappearances and cost many thousands of lives. But the end of the armed conflict has done little to reduce the number of desperate Kurds trying to escape their homeland. The war may be over but the battle to survive continues. To many Kurds, this underprivileged, undeveloped underbelly of Southern Turkey is no place to make a stand. 'So, maybe it costs about $5 000 Euros,' explains Mehmet Tabkir. 'You leave the money with someone here. When you get into the country you want to go to, you call the person who has your money and you say, "Okay, pay them." The man who goes is usually someone who has no job, who can't take care of his family. He sells all his stuff—his car, his house, if he has one—and uses this to go abroad'.

Tabkir is one of a group of a half a dozen friends in their early 30s drinking tea in the back of Ali Karatut's jewellery store in Pazarcik, a small, pleasant farming town set in beautiful hill country 150 kilometres west of Adiyaman. Like Kurdish men in general, the friends divide into three categories: those who want to go abroad, those who already live abroad and those who have lived abroad and came back, voluntarily or otherwise.

For these otherwise respectable, conservative family men the shadowy world of international people smuggling is merely an expensive and somewhat risky service industry. 'It's like a trade, it's a business,' says Mehmet Taskiran, a construction worker who sneaked into Italy on a dodgy visa 10 years ago and is now home on holiday. 'They [the people smugglers] are like a travel agent. We don't see them as criminals. They are doing their job. If you want to go to Italy, how can you go? You don't know the way. These guys tell you everything and they help you all the way.' Nobody sees any sin in conning their way into foreign countries in search of work. 'I went to Italy and I don't do anything bad there,' says Taskiran. 'I'm a very good person for the Italian government and I am very good for the Turkish government. I work hard and pay a lot of taxes in Italy and I bring a lot of money back to Turkey. They are both doing well from me.'

Their host, Ali Karatut, returned voluntarily from Turkey six months ago. ('I didn't like the conditions there. . . I missed my home. . . Things are much better here now. There are no problems like before') and opened a jewellery store with money he and his brothers earned.

He made it to Italy by speedboat from Albania eight years ago and was granted legal asylum because, he says, he had been twice jailed by the Turks during the PKK struggle.

'Why doesn't Australia accept people from here?' he demands. 'When I was in Italy I heard that people who went to Australia as refugees were all complaining about the Australian government because it refused them all their human rights. I went to Italy as a genuine refugee and they treated us well there and they respected our rights. From the outside Australia looks like paradise, but inside it's like a hell.'

In this part of the world respectable men discuss infiltration routes the way their Western counterparts weigh up mortgages and pension funds.

Mehmet Tabkir, who makes 150 euros a month before tax working for the town council, talks enviously of the 1 200 euros that Karatut eked out of his share in an Italian kebab shop. He has his eye on a nice little opportunity, though: if you can get to the Czech Republic there's a chap there who will sprit you into Germany for a mere 400 euros.

'The trouble is, now I can't get a visa for the Czech Republic. I wanted to go with a travel agency bus tour but they took 120 people on the last one and only 40 of them came back. So they stopped it.' He laughs.

For all the frank good humour, these men are well aware of the dark side of the trade in human hopes and lives. One refers to the incident two years ago in which eight Kurdish men, women and children were found suffocated in a container at a port in Ireland—a First World country which less than 15 years ago was itself still exporting thousands of illegal migrants annually to the US and Australia.

Another mentions a local youth who went off with smugglers in 1991 and was never heard from again: 'You had to pay in advance then, and once they had the money they didn't care if you lived or died. . . It's better now.'

Mehmet Taskiran shrugs it off. 'Of course we are very saddened when people die but life is full of risks,' he says. And says Okkes Gursoy, 'When they go they are ready for anything maybe even that they die on the way.' He is unemployed, and dreams of taking his family to London.

'If it was like Europe here, we wouldn't need to go anywhere,' says Taskiran. 'Maybe we'd go for a holiday in the West and actually come back from it.' They all laugh at that one.

I quote at length those stories from *The Age* and *The Sydney Morning Herald*, *The Age* in particular, the first and longest quotation, to indicate that I certainly accept that amongst those seeking to come to Australia there are many genuine people seeking refuge who will have accurate stories of persecution, trouble and turmoil back in their home country.

What concerns me a little bit in this whole debate is what I call the moral supremacist argument, and that is that some of those who criticise John Howard and the federal government on this issue assume this moral supremacy whereby only they have compassion, only they are right in relation to this debate and that John Howard, in a vindictive, bitter and personal way, as a tormented and demented little man (as he is described on some occasions), is wreaking havoc on genuine people seeking refuge in Australia.

As someone who has not always agreed with John Howard on issues of race and immigration, who spoke publicly back in the late 1980s as a mere backbencher in South Australia then with not much impact, I suspect, I rise on this occasion to speak at length to support the federal government and the Prime Minister's position on these issues. In doing so, I indicate that I am not in a position to attest to the absolute accuracy of what has been written in *The Age* and the *Sydney Morning Herald*.

I know that the Bakhtiyaris, in particular, will challenge some of the claims. However, what can be said about the Russell Skelton story is that he went to Afghanistan, as did the authors of the *Sydney Morning Herald* stories, and interviewed hundreds of people in relation to this particular issue. I am sure that it would have been just as big a story if he had been able to prove that Ali Bakhtiyari's story was correct and that John Howard and Philip Ruddock had got it wrong. I am sure *The Age* might have been pleased if that had been the end result of the investigation but, all credit to them, they have reported the story at length even though it significantly opposes and debunks the claims made by the Bakhtiyaris and their supporters. It supports the position of the Prime Minister and the former minister for immigration, Philip Ruddock, on that particular issue. As I said, I am not in a position to dispute it and neither are other members who have quoted other commentators, press reports and figures in relation to this debate.

In South Australia, we are not experts in this particular area; we are very interested observers—some to a greater degree than others, I freely acknowledge—but we rely, nevertheless, on information with which we are provided. I want to firmly indicate that it is not a one-sided issue; it is not a one-sided debate. The fact that a significant number of Australians support the position of the Prime Minister is an issue. I do not say that that is the conclusive issue. I have never been one to say that because a majority supports a

particular view, it is therefore right; but it is, nevertheless, a factor in this particular debate.

Looking at the impact of the border protection policies, I can summarise them as follows: in 2000-01, 5 645 people arrived unlawfully in Australia; of those, 4 137 arrived in boats. In 2001-02, 1 277 people arrived illegally in boats. In 2002-03, there were no boat arrivals. In terms of the number of people endeavouring to enter Australia via boats, in just two years we saw a reduction from 4 137 to 2 470, and in 2002-03 there were none. I think that is an indication. I quoted at length as to how the people smugglers operated and what they did to try to ensure that people were able to get into Australia and stay here, and use our legal systems once they were here to try to ensure that they were able to stay in Australia.

There is another figure that I would like to put on the record, which comes from a December 2002 press release from the Hon. Philip Ruddock, which states that during the first three weeks of August 2001, some 1 212 unauthorised arrivals entered Australia by boat. There were credible intelligence reports suggesting that another 5 000 people were signed up to travel this way. Unless something was done, there was the potential that more than 8 000 unauthorised arrivals would enter Australia in 2001-02 growing to some 12 000 in 2002-03. I hasten to say that I cannot attest to the accuracy of what it might have grown to; certainly, I presume the 1 212 unauthorised arrivals in those three weeks is a relatively accurate figure. Were the figure to be 5 000, 8 000 or 12 000 over the coming years, I do not think that anyone is disagreeing that there was credible evidence that, unless tackled significantly in some way, these people smugglers were going to increase significantly their trade in illegal immigrants into Australia.

It is as a result of that that the federal government proceeded as it did, as the Hon. Sandra Kanck highlighted, with the support, on most occasions, of the federal labor opposition at the time. One of the issues that the Hon. Kate Reynolds referred to in her contribution was as follows:

> The Universal Declaration of Human Rights is the most widely accepted international convention in human history.

Article 14 provides:

> Every person has a right to seek asylum in any territory to which they can gain access.

The federal government's response to that, and similar claims made by the Hon. Kate Reynolds, is as follows:

> People who arrive in Australia without authorisation are illegal entrants. This has nothing to do with subsequent claims for asylum. The Universal Declaration of Human Rights statement that 'Everyone has a right to seek another country's asylum from persecution' does not mean that someone can pass through several safe third countries and use illegal human trafficking channels to secure a preferred way of life.

I interpose here to say that some of the stories I referred to indicate the view that the Bakhtiyaris were safely settled in Pakistan for some time. For a price, their family, as well as others referred to in press stories, travelled through third world countries, arrived in Indonesia and then travelled to Australia via the people smugglers. The federal government's position disputes the argument put by the Hon. Kate Reynolds. I continue the quote:

> Under Australia's migration law, the Migration Act 1958 (the act) all people who are not Australian citizens must obtain a valid Australian visa. A non-citizen who was in Australia without a valid visa is an 'unlawful non-citizen'. The act requires that any person who arrives unlawfully in mainland Australia is to be detained until granted a visa or removed from Australia. The law applies equally to adults and children.

That is the federal government's response to the claims made by the Hon. Kate Reynolds about the Universal Declaration of Human Rights. The honourable member (and I think the Hon. Sandra Kanck as well) referred to a period when 90 per cent of all unauthorised boat approvals were eventually approved. I am not sure whether they indicated the length of that period. The other information with which I have been provided is that it is not news that there were high approval rates in the order of 90 per cent for unauthorised boat arrivals from late 1999 to mid-2001. This has been well publicised.

The most recent figures were in the Immigration Department's annual report. I think that one or both of the honourable members quoted from it. It reflects the large number of Iraqis and Afghanis arriving at the time and the circumstances in those countries at that time. The figures simply show that the government has been fair in considering the protection claims of unauthorised boat arrivals. Refugee decisions are taken on merit and on a case-by-case basis. Considerable benefit of the doubt is given.

The overwhelming majority of unauthorised arrivals seeking asylum have no documentation to substantiate their claimed identity or nationality, notwithstanding that for the most part they have travelled extensively through numerous countries before their arrival. Again, we acknowledge that some have genuinely lost their documentation but, clearly, the quotes about how the people smugglers operate show that one of the keys to successful entry into Australia and to stay is to ensure that you do not retain any documentation to substantiate your claimed identity or nationality.

I quoted extensively from interviews with people smugglers and those who had dealings with people smugglers on the particular issue. The federal government information states:

> The high approval rates mean that the people who remain in detention before departure are not refugees and should not be referred to as such. People in detention found to be refugees under Australian law are granted a valid visa and released immediately.

I refer to a story in the *Financial Review* on Monday by Michael Baume, a former Liberal member of parliament and now investment editor of the *Financial Review*. The article states:

> As Amanda Vanstone said last week in Senate question time, 'prolonged detention is not a function of being a refugee—it is a function of having been found not to be a refugee' and then using every available avenue of court challenge, generally with little merit. Ninety-nine per cent of the 1 100 people in detention in Australia have either been found not to be refugees and are appealing against the decision, or are visa overstayers (who, unlike boat people, arrived legally and subsequently became illegals).
>
> The problem is not only that this volume of appeals is swamping the court system, with migration matters making up 82 per cent of the matters filed in the High Court and two-thirds of the appeals in the Federal Court in the latest financial year, but that the great bulk of them are 'unmeritorious'.

Michael Baume's article includes another interesting observation, and again I cannot attest to its accuracy. It states:

> The Lawrence call for a change in the government's hard line is in response to what she describes as momentum within the Labor Party. But as Immigration Minister Amanda Vanstone told the Senate last week, the Lawrence position means, in effect, that boat people should be allowed to land in Australia where they would be assessed for refugee status. And while being assessed they should live in the community, not in detention.

This reflects the question that the Hon. Andrew Evans asked the Australian Democrats, that is, if detention is not to be part

of the Australian response, what is the alternative? Michael Baume continues:

> This is a recipe for electoral decimation, particularly after the recent release of British Home Office statistics which show that by not having a mandatory detention system, more than 200 asylum seekers abscond every day into British society, never to be seen again by officials and never to leave. More than 320 000 failed asylum seekers who were ordered out of Britain over the past 13 years did not do so.

They are indeed stunning figures, if they reflect accurately the British Home Office statistics.

Approval rates vary over time, depending on case loads and circumstances. For example, half of the 1 500 people intercepted in late 2001 en route to Australia and processed offshore were found not to be refugees. That figure of approximately 50 per cent is to be compared with the acknowledged 10 per cent figure of boat arrivals from late 1999 to mid 2001. Again, there is some argument about the general accuracy of the 90 per cent figure, whilst acknowledging that, at certain times, it has certainly been correct. I place on the record the information from the federal government on that issue.

In conclusion, I apologise to members for my lengthy contribution because of my reading onto the record those independent assessments of the situation. This has become a significantly political community issue, with Liberal, Labor, Democrat and Greens all involved. It is important to consider the independent assessment of a senior writer such as Russell Skelton of *The Age* who, unlike us, has travelled to Afghanistan and has investigated the most famous of all the cases, namely, that of the Bakhtiyari family. He has placed significant doubt, on any objective or rational reading of the information he has provided, on their story and on those who support them.

As I said at the outset, what concerns me in this debate is the moral supremacist approach of some on this issue and the claims of those who attack John Howard, the federal government and, in part, the federal Labor Party. I am also concerned about those who believe that everything that the Bakhtiyari family, and those who support them, has said (and I use them only as an example) is 100 per cent accurate and that everything that Philip Ruddock and John Howard have said on this issue is equally wrong.

Through this debate, I have placed on the public record independent assessments which, in this case, cast significant doubt. I have also placed on the record independent evidence on the recent Melville Island incident, which is still being investigated—another cause that has been taken up by many in recent times, with further attacks on the Prime Minister and the federal government.

I indicate that the Liberal Party strongly opposes the original motion of the Hon. Kate Reynolds. As I said, we have not had an opportunity to consider the government's amendment. I understand from the Hon. Sandra Kanck that, after the government has moved its amendment and spoken to it, the Hon. Mr Gilfillan will adjourn the debate to give the Hon. Andrew Evans and the Liberal Party and the Hons Mr Xenophon, Mr Stefani and Mr Cameron an opportunity to consider the Labor Party amendment and their positions on that issue.

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

> Leave out all words after 'That the South Australian parliament' and insert 'condemns the Pacific Solution as a form of detention that slows down the process of assessment and causes asylum seekers significant delays and uncertainty. Further, the South Australian parliament condemns the policy of returning asylum seekers to countries which do not have genuine and acceptable human rights protections.

I will not take as long as the previous speaker. I am not quite sure whether he was trying to convince us or himself of the morality of his contribution. However, it was well researched, and I suspect that he has a lot of papers from the foreign affairs department.

An honourable member: And the Melbourne *Age*.

The Hon. T.G. ROBERTS: And the Melbourne *Age*. It is easy to demonise sections of any group trying to enter Australia. I am sure that all of us make some claim to have inherited genes from those who have travelled to this country from many parts of the world. I cannot see any Aboriginal people in the chamber who can claim original inheritance. In the 1860s, my mother's family arrived from Ireland, having been subjected to religious and economic persecution by the English and having suffered the poverty caused by the failure of the corn and potato laws and other disasters that led to the impoverished position of the Irish during the early 1800s.

Those immigrants arrived penniless in Australia and had to find their way through the system at the time. For probably 100 years, divisions were created within Australia—some were serious divisions and others were more light-hearted. However, in the main, they were real. Australia's settlement and its character has come out of that struggle and, without those waves of migration through hardship, Australia would be a different place today.

There were other waves of migration after the Great War that led to more interest in Australia particularly from displaced Europeans who, in a lot of cases, had no status in their own countries. They had no identification, they had little or no hope of rebuilding their lives in their own countries and they sought refuge in other countries around the world, including Australia. America took in many migrants after the Great War, as did other English-speaking countries such as New Zealand.

We also saw waves of migration after the Second World War and, again, many people landed on our shores with no identification and in many cases their country of origin could be determined only by the stories that they told because the papers that showed who they were and what they did were all destroyed during that war. During those times we took in a lot of migrants on trust, on faith, accepting that they were who they said they were. As it turned out, over time, many of those people were shown not to be who they said they were. Instead, they were war criminals, having indulged themselves in crimes during those wars, and later detection found that they could be tried as war criminals. South America and a number of other countries took in a lot of migrants at the same time, and many of the migrants who reached the shores of South America, having taken part in a major war in Europe, were shown to be less than scrupulous individuals who carried out war crimes.

Another wave of illegal migrants arrived on our shores in the 1970s from war-torn Vietnam and Cambodia. Many people from that part of Asia, for the same reasons, had no identification and were taken on trust. Again, there were attempts to demonise the migrants who came from that illegal flow. So, Australia first received migrants as a result of the great Irish famine, and the reception those people got was less than welcoming. Then we had the waves after the two major wars. We also had Sorbs, Wends and Prussians, who were refugees from religious persecution, and in the latter part of

the 19th century they settled in South Australia. They were seen to be great workers. They arrived under difficult circumstances, having escaped from the religious and economic persecution that existed in those countries. They arrived in South Australia and other parts of Australia and set up settlements that were as close as possible to ideal, according to the terms set out in their charters.

There have been many occasions on which Australia has had to take on faith waves of migrants, and on many occasions we have embraced those people and on other occasions we have demonised them, but we have always tolerated the flow of migrants from other countries, processed them and retrospectively done the work to check their backgrounds to make sure that they did have some status for entry into our country, whether it was refugee status or status which was acceptable to the government at the time.

What we have now is a policy that condemns individuals before they are processed, and with the Pacific solution and other forms of detention the processing takes an unreasonable length of time and there is no warmth in the welcome for many of these poor unfortunate people who have been subjected to traumas within their own country and then are further traumatised by the method of their arrival, namely the people-smuggling trails.

The contemporary circumstances in which illegal immigrants find their way around the planet into Germany and into the US is tolerated. It is a method of economic exploitation which has now stopped almost completely in the case of the Turkish and Middle East migration into Europe due to the fear of terrorism. September 11 made sure that people were more conscious about protecting their borders and protecting the security of their country. In the USA, economic exploitation of Mexican labour is tolerated by opening up borders to allow very poor Mexicans to, in some cases, filter across and, in other cases, flood across for economic purposes.

The situation in Australia is different from the way in which the New Zealand government processed its share of the people who were brought to this part of the world by people smugglers. In fact, the New Zealand solution is probably as humane as one could ask in relative terms when considering the trade-off that must be made in protecting your border, protecting your own internal security, and acting in a humane way. I know that Australia's situation is slightly different in that it is the first entry point for this wave of migration, but that does not mean to say that we could not have had, in the first instance, a policy of right of entry for people with refugee status so that they are not made to feel that they are criminals. In particular, the women and children who are in a male-dominated, war-torn area of the world with many traumatised people could claim at any time over probably the past five centuries that they were traumatised by some war or dispute of some sort. We have found that the test they have to face to be declared a refugee is very tight.

The circumstances in which we have compromised our own democracy is a price that we have had to pay in dealing with the recent immigrants coming through the people smuggler trails. Certainly, I do not have any support nor pay any respect to those people who have lived off the difficult situation that people find themselves in, but I think that, if we had put together a procedure that enabled us to work much closer and certainly a lot quicker with the Indonesian government over the past 15 years to 20 years, we would have developed a far better policy than the one which we have, which has been made on the run.

The exclusion of islands is another way in which we have compromised our own democracy. It was a knee-jerk reaction to a very small problem of one or two boats that landed, to ensure that they were not able to claim refugee status and were just towed straight out to sea. I think mention has to be made of the number of refugees who drowned off the coast of Indonesia. That was due entirely to the tug of war going on at the time between Indonesia and Australia about the way in which we dealt with refugees.

The Hon. Kate Reynolds interjecting:

The Hon. T.G. ROBERTS: In fact, 354 men, women and children drowned through no fault of their own other than they were trying to seek a better future. They were denied life because no firm policies were laid down that could have prevented that. In fact, Australians have been identified as being involved in the people smuggling business in Indonesia, so it cannot all be put down to only people with Middle Eastern names being involved in people smuggling.

I will not go too long, other than to say that the policy of the federal Labor Party has not been one that has been uniformly accepted nor universally accepted by members of the Labor Party Australia-wide. It is a commonwealth issue. Immigration is a commonwealth issue and security is a commonwealth issue, and at a state level I am sure many members of parliament would have liked to make public statements to try to influence the way in which the federal branch of the Labor Party was formulating its policies. It is a breath of fresh air to hear that the new federal Leader of the Opposition has called on the current government and the Prime Minister to form a bipartisan policy to try to release 200 children from the detention centres by Christmas. That may sound as if it is a jingoistic policy made on the run—

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: Well, 200 children is a start.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: Well, the policy should be that, if it is not shown that the women and children are a threat to the good order of this country, they should be allowed temporary settlement within the communities in which the detention centres are set up.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: I am not quite sure. I understand he is calling for the children—

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: I didn't interject on you. There is a call in some of the communities where the detention centres are set up, including Whyalla, to embrace the refugees and release them into the community to make their lives a lot better than they are at the moment. The people in Port Augusta are calling for the same thing. There is no reason in my mind that the integration of the detention centre and the community's human resources and, certainly, human contact cannot be allowed. There is no reason those people should be kept behind barbed wire.

I think our position is changing by the day. I understand the issues associated with border control and internal security. I am sure that if the federal government was able to turn over the resources to an up-to-date foreign policy which included dialogue with countries such as Iran, Iraq, Afghanistan, Turkey, the Kurdish people and Pakistan, and if we had information bases that allowed us to do background checks, we would be able to prevent a lot of the fear that has been presented to this country deliberately by a Prime Minister who will go down in history as probably the best politician that the Liberal Party has ever placed in the position of a

Prime Minister but who will be regarded as one of the worst prime ministers when we reflect on some of the things that occurred on his watch.

We have moved our amendment to try to reach a compromise, if you like, in respect of the wording of the motion of the Democrats, and we would like it to be considered by those members who received a copy of it only today. Hopefully, we can come up with a compromise from this parliament (from the Legislative Council, anyway) that expresses the issues that we all would like to see covered and with a policy that is more humane than the one we have at this point.

The Hon. NICK XENOPHON: I cannot support this motion because I have concerns about some of the wording, and I will refer to that shortly. I indicate that I am concerned about the psychological impact of mandatory detention, particularly on children. I am concerned about the way the detention process works and the length of time it takes to deal with these matters. I think it is fair to say that the Hon. Mr Lucas's contribution reflected quite heavily on the Bakhtiyari case, and I think there is a lot of merit in Russell Skelton's investigative pieces in *The Age* in relation to this. However, one Mr Bakhtiyari does not mean that all refugees are necessarily of that mould. The flip side of that, of course, is in relation to the 'children overboard' incident, which has been the subject of a Senate inquiry and much conjecture and debate. So I think that on both sides of the fence there is considerable conjecture in terms of the truth of the matter.

I object in particular to the wording of the Democrats' motion referring to crimes against humanity, and I refer to M. Cherif Bassiouni, who is a Professor of Law and Director of the International Criminal Justice and Weapons Control Centre at DePaul University in Chicago. He chaired the UN Commission of Experts on the former Yugoslavia and is the author of *Crimes Against Humanity in International Criminal Law*. In an extract from the professor's contribution he states:

> The term 'crimes against humanity' has come to mean anything atrocious committed on a large scale. This is not, however, the original meaning nor the technical one. The term originated in the 1907 Hague Convention preamble, which codified the customary law of armed conflict.
>
> The codification was based on existing state practices that derive from those values and principles deemed to constitute the laws of humanity as reflected throughout history and different cultures.

He goes on to discuss the Nuremberg Charter as representing the first time that crimes against humanity were established in positive international law, and states:

> The International Military Tribunal for the Far East, at Tokyo, followed the Nuremberg Charter, as did Control Council Law No. 10 of Germany, under which the Allies prosecuted Germans in their respective zones of occupation. Curiously, however, there has been no specialised international convention since then on crimes against humanity. Still, that category of crimes has been included in the statutes of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), as well as in the statute of the International Criminal Court (ICC).
>
> In fact, there are 11 international texts defining crimes against humanity, but they all differ slightly as to the definition of that crime and its legal elements. However, what all of these definitions have in common is: (1) they refer to specific acts of violence against persons irrespective of whether the person is a national or non-national and irrespective of whether these acts are committed in time of war or time of peace, and (2) these acts must be the product of persecution against an identifiable group of persons irrespective of the make-up of that group or the purpose of the persecution. Such a policy can be manifested by the widespread or systematic conduct of the perpetrators which results in the commission of the specific crimes contained in the definition.

I note that the Hon. Kate Reynolds has referred to Julian Burnside QC's definitions of crimes against humanity, but Professor Bassiouni goes on to say:

> To some extent, crimes against humanity overlap with genocide and war crimes. But crimes against humanity are distinguishable from genocide in that they do not require an intent to 'destroy in whole or in part' as cited in the 1948 Genocide Convention, but only target a given group and carry out a policy of 'widespread or systematic' violations. Crimes against humanity are also distinguishable from war crimes in that they not only apply in the context of war—they apply in times of war and peace.

An eminent expert on crimes against humanity has given a definition. I cannot accept that the federal government's conduct in this matter would fall within that definition on any reasonable interpretation. There is justifiable concern about the emotional, psychological and psychiatric impact on detainees, children and families, and that does concern me. I believe that there ought to be a better way of dealing with refugees. Whether we look at the New Zealand model or whether we look at models that deal with a more expeditious resolution of disputes, these are matters that ought to be considered, but I do not think it is fair, whatever one may think of the Howard government's policy in relation to this, to define it in terms of crimes against humanity.

But, having said that, I think we should all be grateful to the Hon. Ms Reynolds for raising this issue. It is an important issue. It is one with which we should be confronted. Debate on this issue is timely and healthy, because it is an issue that should not be swept under the carpet. I cannot support the motion. I will need to consider the government's amendment. I am obviously more sympathetic to that. In the circumstances, I believe that this motion cannot be supported because the definition of crimes against humanity, as I understand it, does not, in any reasonable sense, apply to this government.

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

STATE SUPPLY (PROCUREMENT OF SOFTWARE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 September. Page 208.)

The Hon. J. GAZZOLA: I am sure that all members who have heard my previous contribution will recognise what I am about to say. The government does not object to the aim of the amendment, but believes that there are more effective mechanisms for ensuring that the government can use all effective available technology, including open source software. Open source software, or OSS, is not generally owned by its users but is licensed. The licence defines the terms and conditions for use of the software. The distinguishing features of OSS are that the software source code is openly published, is frequently available at no charge and is often developed by voluntary effort.

However, under the open source model, developers sometimes can and do charge for their software, but cannot claim exclusive ownership or intellectual property to the code, thereby allowing others to further develop and distribute the code. There are several areas of software development where open source software is available, such as operating systems, desktop software, databases and web services. In the South Australian government there are a

number of open source web site implementations. SA Central is one such example.

The Department for Administrative and Information Services is actively observing the software market in Australia and overseas and communicating with other jurisdictions on open source applications, as well as considering the long-term implications, performance and value to be obtained from open source software compared to propriety software. Where open source products have reached sufficient maturity they can provide an alternative option to propriety software, provided they meet the business requirements of the government. The outcome that the Hon. Mr Gilfillan is trying to achieve would be better achieved through changes to procurement policy, which are currently under way.

The administrative services minister has introduced a bill to parliament to replace the State Supply Act 1985 with the State Procurement Act, and it is envisaged that the new legislation will be general to allow greater flexibility for government policy to influence procurement and practices. In particular, the State Supply Board is seeking, through a legislative framework, to broaden the act to provide leadership in all procurement activities. This will be achieved by the streamlining of accountability frameworks and, where appropriate, encouraging procurement activities to support local business, reflect environmentally sustainable strategies and support the remedy of social injustice.

A key objective of the proposed new legislation is that it will remain general rather than be specific so as to provide greater flexibility for government policy to influence government procurement policies and practices. So, the changes being proposed by the Hon. Mr Gilfillan can be facilitated through procurement policy rather than through legislation. The outcome will be the same as that proposed by the Hon. Mr Gilfillan. It is not necessary to legislate for specific products or services that can or should be used by government, nor is legislation deemed appropriate or a practical mechanism to mandate particular goods or services.

The policy approach has several advantages over the legislative solution proposed, such as:

- it enables the board to support the policies of the government of the day
- the policy can be more easily and quickly developed and/or modified to accommodate changes to procurement practices and or strategies
- the policy tends to be more flexible and is seen as a vehicle or mechanism that can facilitate and respond to change.

In particular, when dealing in a marketplace, such as the information technology field where change is the only constant, the ability and capacity to react quickly to market forces is an important asset in the armoury of the modern procurement business strategist. Legislating product usage is not seen as a practical solution in such an environment. The Hon. Mr Gilfillan implies that his proposed amendments to the current legislation will realise a value outcome in the expenditure of public money for one particular commodity group only.

As part of the review process of current legislation, it is proposed that obtaining value in the expenditure of public money for all goods and services will be a key objective of any new procurement legislation. This will provide the flexibility required to include OSS as a procurement option by policy. An administrative rather than a legislative approach is preferred because the IT field changes rapidly and it is difficult to change legislation quickly to keep up with developments in IT.

The Hon. R.D. LAWSON: The Liberal Party is proud to be a free enterprise party. We support policies which encourage competition as well as policies which reward initiative and innovation. We also believe in government efficiency, and that when governments spend government funds they should do so wisely. We believe that government procurement policy should effectively advance the objectives I have just mentioned as well as the public interest. The Hon. Ian Gilfillan, in introducing this bill, may well argue that the principles I have just mentioned would lead us inexorably to support his bill. However, we will not. We do not propose jumping on the open source bandwagon by legislation—

The Hon. Sandra Kanck interjecting:

The Hon. R.D. LAWSON: I note the Hon. Sandra Kanck says, 'We are going to support Microsoft, are we?'

The Hon. Sandra Kanck interjecting:

The Hon. R.D. LAWSON: 'That's the alternative,' she says. We do not believe that is the alternative, and I will argue later to demonstrate that position. It is interesting today that in the online edition of *The Age* newspaper there appears an item titled 'Open Source Industry Cluster set up in South Australia', which states:

> An industry cluster which aims to bring together businesses in South Australia working in the open source area has been set up under the name of Open Source Business Network—SA. Organiser, David Lloyd, a freelance consultant, trainer and systems administrator from Adelaide, said the cluster would complement the work of two of the most active open source groups in South Australia, Linux SA and the South Australian chapter of Australian Unix Users Group.

Mr Lloyd said that membership was currently free and that the first meeting would be held this month.

It is of little surprise that the Hon. Mr Gilfillan would be seeking to have this bill voted on today. He is not alone; many other members of the Australian Democrats and the Greens have been pushing the open source barrow for some time, as has the Australian Labor Party. I am somewhat intrigued by the contribution made tonight by the Hon. John Gazzola. It is interesting to see that when Labor is in government it has a different view of these matters to when it is in opposition.

Last year, the federal opposition shadow minister for information technology, Senator Kate Lundy, said, 'The Australian Labor Party supports open source software'. At least, that is what Senator Lundy told the e-Government Australia Summit last year. An account of her arguments appeared once again in *The Age* newspaper under the heading 'Labor backs open source software for e-government projects'. It is good to advocate for those principles whilst in opposition, but when one has the responsibilities of government one has to look at it from a slightly different perspective.

It was also interesting that, earlier this year, the South Australian Minister for Administrative Services (Hon. Jay Weatherill) was caught up initially in suggesting that the EDS outsourcing contract would be an occasion for the government to dictate open source software. However, the words that the minister was quoted as saying ultimately bore a close resemblance to those uttered this evening by the Hon. John Gazzola.

The reason why we will not support this bill is that we do not believe that a strong case has been made by the mover for

the necessity for legislative intervention in what is essentially a procurement policy. As the Hon. John Gazzola said when speaking on behalf of the government, 'The government is adopting procurement policies through measures other than legislation.' We believe that it is inappropriate to put procurement policies of this kind into the strictures and sort of straitjacket embodied in this bill.

Open source software is a hot topic around the world. My search of the Google search engine on this subject showed that there were some 230 000 entries, all of which had dates within the past 12 months. One of the many articles I had the opportunity to peruse was by Tony Healy, a research software engineer and policy researcher within Australia-Innovate. He was writing for an online journal called 'On line Opinion—Australia's e-journal of social and political debate'. Mr Healy is, certainly by what he writes, no conservative economic rationalist, but he has a number of interesting perspectives, which I think he puts more cogently than many others who are writing in this field. He says:

> Open Source won't further Australian software
>
> Much political advocacy seems to presume there are only two types of software—open source and that provided by Microsoft. It seems not to be aware that there is already extensive software development by Australian companies and individuals, and that this mostly targets, and benefits from, Microsoft platforms. Those companies and people would be harmed, not assisted, by open source.
>
> Open source software is based on software being free, which means developers receive no revenue. Open source advocates dispute this but the fact is that, once the source code is publicly available for a product, it is difficult to charge for software, because other people produce rival programs using that source code, or modify it and pretend it was their own work. In this sense, software is different from all other copyrighted works. . . .Any concerted move to open source would kill innovation, because revenue is essential for all serious practitioners in the economy, including software developers. It's worth noting that Linux creator Linus Torvalds created a product worth billions of dollars, yet [he] still has to scrabble for a job. This is not a model we want for Australian software.

Under the heading 'Hidden corporate agendas', Mr Healy goes on to say:

> Open source advocates like to believe they're attacking big business but they're actually pushing an agenda that suits some elements of big business. Competitors to Microsoft stand to gain handsomely from open source, and are actively funding the open source. . . [public relations]. Those competitors include foreign outsourcers, who will gain hefty consulting and support fees from any switch to Linux.
>
> They also include computer makers such as IBM, Sun and . . . [Hewlett Packard], who can expand the market for computers by making software development free or cheap. In this sense, open source is actually very dangerous for Australia because our future depends on having a strong software industry. IBM, Sun and HP are in fact funding the organisation that now employs Linus creator Torvalds. . . An important part of the mythology behind open source software is that it's cheaper than buying commercial software. However when the German city of Munich recently switched to open source software, the cost was $US40 million, which was comparable with Microsoft costs. Munich councillors believe they will face reduced long-term costs but I think they underestimate the complexity of software and the way outsourcer companies build revenue.

Under the heading 'Being able to verify the operation of the software is a red herring', Mr Healy also says that many believe that the protection of source code is the only feasible way to protect copyright and software. He says:

> Copied movies, books and articles can't be provided in public without their origin being obvious, thus preventing blatant pirating. With software though, once the source code is made available, freeloaders can take that source code and build similar programs without doing all the development work. The source code used to build the product is not visible in the final product so freeloaders can claim it to be their work.

Software developers should retain their important blueprints or source code as a way of protecting their copyright and thus being able to carry on business. In summary, Mr Healy says:

> Open source does not really provide protections for the best software developers, and thus it destroys valuable business opportunities for Australia. The debate generally fails to acknowledge important distinctions, particularly the difference between deciding to use public software and then mandating open source as a development methodology for all software. Finally, parliamentarians must be much more careful in analysing competing interests in the technology industries.

I commend Mr Healy's article to members who are interested in this topic. I do not believe that we need to make any choice about the validity of Mr Healy's arguments or those advanced by the open source enthusiasts.

The issue before this parliament is whether the material laid before the parliament demonstrates a need for legislation of the kind proposed. It is fashionable, but the honourable member has not, to our satisfaction, demonstrated that there would be any advantage in proceeding down this legislative route. A cost-benefit analysis has not been provided by the honourable member. One would expect there to be such an analysis before proceeding along this route.

It is true, as I have acknowledged, that there are many open source enthusiasts in our community—and I commend Mr Lloyd for the group that he is fostering. There are, however, many other software developers in this state who have established businesses, not on open source but on the back of Microsoft platforms. EWORD Pty Ltd is one such business success story in South Australia which produces software which builds upon the Microsoft suite to make a graphical user interface, the name of which I do not specifically recall. I think it is called Maxus Playground or Maxus Sandpit or something like that. It enables very young children to use computers, and that is based upon the Microsoft platform.

If there were not a Microsoft platform, people would simply not be able to capitalise, as EWORD Pty Ltd have capitalised, on the existence of a widely used platform that is available around the world. This South Australian company is a success story and there are hundreds of other software developers who stand not to gain but to lose. The honourable member has certainly not satisfied us that he has fully taken into account the impact of this proposal upon such businesses. For those reasons we will not support the second reading of this bill.

The Hon. A.L. EVANS: I will make a very brief speech tonight. I have made some inquiries concerning this bill and have been pleased to discover that this type of software has some distinct advantages over the proprietary alternatives. My understanding is that open source software will mean more cost-effective computing for the government. Many large companies such as IBM, SUN, HP and Oracle are currently supplying open source software products. Presumably, they would not do so unless it made good commercial sense. I understand that open source software is about free choice and that it allows a much faster response to problems such as SPAM emails and viruses. Open source is generally safer than proprietary alternatives. Family First supports the second reading of the bill.

The Hon. NICK XENOPHON: I support this bill. I congratulate the Hon. Ian Gilfillan for putting up this bill. I believe that this bill will go a long way in sending a clear signal to the market and to those who have enormous power

in the field of proprietary software (in particular, Microsoft) that there is an alternative which will encourage the growth of open source software. I note the Hon. John Gazzola's comment that, if we have procurement policies in place, why have legislation, and I think the Hon. Robert Lawson takes a similar view.

My view is that this bill ought to be supported because it sends a very clear signal that there must be a legislative policy in place to encourage open source software. I believe that the legislation drafted and introduced by the Hon. Ian Gilfillan seeks, as far as practicable, to avoid the procurement of software that does not comply with open standards. As far as practicable it would allow, in cases where, for security or other reasons, open source software not to be procured, but it sends a clear signal to the market. I note that the Hon. Ian Gilfillan has achieved national notoriety with respect to the open source software program. He has worked with the Democrats' IT spokesman, Senator Brian Greig. An article in *The Australian* of 23 September 2003 states:

> The common misconception that open source is free is about to be debunked by the Democrats, as they charge big business $385 a head for an explanation of the party's support for open source legislation.

Well, Mr President, I think that anything that the Hon. Ian Gilfillan tells us is priceless. I am grateful that we have not been charged for the information that he has imparted to us. The article in the IT section of *The Australian* of 7 October covers this issue very well. The article is headed 'Coles shops for open source' and states:

> Coles Myer has followed Telstra's lead and begun flirting with open-source software, such as Linux, as the retailer rationalises its IT operations. In what could be another blow to Microsoft's hegemony of the desktop, Coles has a number of Linux pilot projects on the boil.

I note the Hon. Ian Gilfillan's comments that Telstra could potentially save up to $750 million in a few years by using open source software compared to the $1.5 billion that it spends now. Companies such as Coles Myer are flirting with open source software. This bill gives an opportunity for this government to develop a long-lasting relationship with open source software, rather than by way of procurement policy. For all those reasons I suppose the Hon. Ian Gilfillan's bill.

The Hon. IAN GILFILLAN: Members can hear what I say for free; there is absolutely no charge, except for the pain of staying up later. I am actually delighted to hear the government's response, although it was given at machine-gun speed and left both members of the frontbench a little bewildered as to exactly what the government will do. In fact, I am not sure whether they yet know what they will do, but I hope they support the bill. In fact, the backflip, which was expressed in the Hon. John's Gazzolla's exposition on the government's position, is remarkable and would not have occurred, I do not believe, without the initiative of the Democrats pushing this bill. This the second bill—we have been pushing it. The minister, who now says that open source will be introduced on a wide range through procurement and has wonderful advantages, said earlier when we first raised the subject that it was inappropriate and inadequate and therefore not really of significance. The minister, Mr Weatherill, is on the record as saying that. In fact, I put it into one of my earlier contributions.

It gives me great satisfaction, however the government decides to vote. If it is magnanimous it will support the bill but, on the other hand, governments do not tend to be particularly magnanimous to bills that do not come from their own bosom. But the Democrats can celebrate the fact that we have won the day in pushing the government to make this statement. In fact, that is indicative right across the country. The rolling ball of support for open source software is really moving at a pace. It is no longer an argument of who is right or wrong. That is what I thought was rather unfortunate about the Hon. Mr Lawson's contribution. It was antiquated in its concept that Microsoft was to be revered and open source was reckless and irresponsible and destroyed free enterprise and the challenge of innovation. He obviously has not read the bill. It is not very large and, for someone with his intellectual capacity, he could probably do it in about 10 seconds. I will read the point which he apparently did not absorb in an earlier analysis. New section 17(a) provides:

> (1) A public authority must, in making a decision about the procurement of computer software for its operations—
>
> (a) consider the procurement of open source software—

That is dictatorial—

The Hon. Sandra Kanck interjecting:

The Hon. IAN GILFILLAN: It continues:

> (b) as far as practicable, avoid the procurement of—
>
> (i) software that does not comply with open standards;

I wonder whether the Hon. Mr Lawson knows what open standards are. Open standards are very widely accepted and enormously supported as a tenet by the software industry at large moving into this, except for those who hold a hegemony or monopoly and do not want to lose it. That is virtually doublespeak for 'Microsoft'. Open source software is a major opportunity for South Australia—an opportunity I believe we should not ignore. It affects the coffers of this state in a number of ways—and all of them are positive.

First, if we move to adopt open source software there will be an immediate reduction in the amount of licensing fees paid by the government to overseas interests. It is not chicken food: it is real money. If we consider a single company such as Microsoft, we get an idea of the amount of money that is being spent. Microsoft has stated it earns $1 billion in licensing revenue from Australia. We would estimate that approximately half that figure would be from government organisations around the country.

Given the relative size of South Australia compared with the other states, it would be reasonable for us to estimate that our expenditure would be around 10 per cent of the total. This would suggest we are spending $50 million on Microsoft licences in this state—that is the government expenditure. This is an opportunity: if we could find a way to do the same work without paying this fee, that would be a good thing, and Microsoft is only one company that leases out their software under licensing agreements, as the Hon. Robert Lawson observed.

Members have expressed an interest in a metaphor that I have used at other times on this subject where I compared computer software with cars. I mentioned to members that we would find the world a frustrating place if we were not even allowed to look under the bonnet of a car that we had bought. Clearly, other people have given this idea a lot of thought, as will be understood from the following.

There is a popular story floating around on the internet that goes as follows. Bill Gates, who is principal of Microsoft, is reputed to have criticised General Motors for its lack of innovation in the automotive world. In response to Bill Gates's comments, General Motors issued a press release stating:

If GM had developed technology like Microsoft we would all be driving cars with the following characteristics:

1. For no reason whatsoever your car would crash twice a day.
2. Every time they repainted the lines on the road you would have to buy a new car.
3. Occasionally your car would die on the freeway for no reason, and you would just accept this, restart and drive on.
4. Occasionally, executing a manoeuvre such as a left turn would cause your car to shut down and refuse to restart, in which case you would have to reinstall the engine.
5. Only one person at a time could use the car unless you bought 'Car 95' or 'Car NT'. But then you would have to buy more seats.
6. Macintosh would make a car that was powered by the sun, reliable, five times as fast, and twice as easy to drive, but would only run on 5 per cent of the roads.
7. The oil, water temperature and alternator warning lights would be replaced by a single 'general car default' warning light.
8. New seats would force everyone to have the same size butt.
9. The air-bag system would say, 'Are you sure?' before going off.
10. Occasionally for no reason whatsoever, your car would lock you out and refuse to let you in until you simultaneously lifted the door handle, turned the key, and grabbed hold of the radio antenna.
11. GM would require all car buyers to also purchase a deluxe set of Rand McNally road maps (now a GM subsidiary), even though they neither need them nor want them. Attempting to delete this option would immediately cause the car's performance to diminish by 50 per cent or more. Moreover, GM would become a target for investigation by the US Justice Department.
12. Every time GM introduced a new model car buyers would have to learn how to drive all over again because none of the controls would operate in the same manner as the old car.
13. You would press the 'start' button to shut off the engine.

Clearly, this would be a bad situation and, although it sounds rather frivolous, it does indicate the consequences of having a monopoly controlling the type of software that Microsoft purveys to us all in this place. For some reason, we all seem to think that it is okay for our computers to behave in these ways when it is clearly unreasonable for cars to do so. After recently inquiring why names appear twice on an Outlook contacts mailing list, a member of my staff was advised that this was a feature of Outlook that he could avoid by not putting a fax number in the box labelled 'fax number'. Such features we could all do without.

On a more sober note, I have explained to this place the benefits to educators and students when learning about programming can be done in an environment where the nitty gritty of fully developed systems can be examined in the finest detail, where students can become active members of a development community and see their efforts being adopted or discussed by professionals in the field, where every student can have a fully licensed, fully operational suite of computer programs for no cost distributed by their educational institution. As an aside, members may be interested to know that I have a system set up in this fashion in my staff office. My next task is to persuade our intrepid Parliamentary Network Support Group that this computer is safe to be connected to the same wires that join us all together. Incidentally, the unit that is set up in my staff office performs all the tasks that those of us who are on the network are able to perform.

This bill is not prescriptive. It requires government purchasers only to consider open source software when making procurement decisions. It is not anti-choice, in that it is calling attention to the existence of a whole set of alternatives that are still below the radar for many people who must use computers every day.

If anything, this bill fosters choice. This alternative is not left field or in any way suspect. It is becoming more and more accepted in the business community every day. I am sure that, as the Hon. Nick Xenophon indicated, members have seen that Telstra is moving to open source alternatives for its system and expects to achieve savings of $750 million per year as a result. That is Telstra's calculation. I did not do those sums: Telstra did. I note that Telstra has many high-end systems that dwarf our concerns with computing. Similarly, Coles Myer is moving into this new paradigm. Open source software is likely to be included in telephone handsets as manufacturers around the world recognise the benefits of systems that can be maintained by a global community of dedicated developers.

The other provisions in the bill are designed to avoid problems when we can be held to ransom by companies that rent the software to us. Software that adheres to open standards and open data formats gives us at least some prospect of hoping that we will be able to access our own information on another day. Clearly, with some systems there is a risk that software houses end up holding the key to the library, only allowing us access to our own information if an annual fee is forked out. I am heartened to see the number of governments around the world that are now adopting open source software—Munich, Peru, Brazil, Japan, China and Korea, for example, and the list continues to grow every day. These people have done the sums and the calculations and have implemented what, in a very gentle way with this bill, I am suggesting that we should consider in this state.

Many countries recognise that computer software licensing fees represent an enormous hole in the Treasury, as though someone had installed a vast pipe to suck from their economy and pump it into the economy of other, wealthier nations. We cannot participate in that money-pumping scenario in a positive way under the current regime of software licensing. I believe that the Democrat bill is the first step towards our repairing the breach in that area of our own finances. As we fix that hole, our own software industry can step forward to develop local solutions for local problems, keeping our money at home—where it belongs. I urge members to support the second reading of this bill.

The council divided on the second reading:

AYES (5)

Evans, A. L.	Gilfillan, I.(teller)
Kanck, S. M.	Reynolds, K.
Xenophon, N.	

NOES (14)

Dawkins, J.S.L.	Gago, G. E.
Gazzola, J. (teller)	Holloway, P.
Lawson, R.D.	Lensink, J.M.A.
Lucas, R.I.	Redford, A.J.
Ridgway, D.W.	Roberts, T. G.
Schaefer, C.V.	Sneath, R. K.
Stefani, J.F.	Stephens, T.J.

Majority of 9 for the noes.

Second reading thus negatived.

SOUTHERN STATE SUPERANNUATION (VISITING MEDICAL OFFICERS) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

NATURAL RESOURCES COMMITTEE

The House of Assembly informed the Legislative Council that, pursuant to section 15K of the Parliamentary Commit-

tees Act 1991, it had appointed Mr Caica, Ms Cicarello, Mrs Maywald and Mr Williams to the committee.

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

That, pursuant to section 15K of the Parliamentary Committees Act 1991, the Hons S.M. Kanck, C.V. Schaefer and R.K. Sneath be appointed as members of this council on the committee.

Motion carried.

HIGHWAYS (AUTHORISED TRANSPORT INFRASTRUCTURE PROJECTS) AMENDMENT BILL

The House of Assembly disagreed to the amendments made by the Legislative Council and made the alternative amendments indicated in the following schedule in lieu thereof:

No. 1. Clause 5, page 3, lines 7 and 8—
Delete heading to Part 3A and substitute:
Part 3A—Port River Expressway Project
No. 2. Clause 5, page 3 (new section 39A), lines 15 to 18—
Delete definition of *authorised project* and substitute:
authorised project means the Port River Expressway Project;
No. 3. Clause 5, page 4 (new section 39A), lines 9 to 21—
Delete definition of *project*
No. 4. Clause 5, page 4 (new section 39A), lines 23 and 24—
Delete "an authorised project or any part of an authorised project" and insert::
the authorised project or any part of the authorised project
No. 5. Clause 5, page 4 (new section 39A), lines 26 and 27—
Delete "an authorised project or a particular part or aspect of an authorised project" and substitute:
the authorised project or a particular part or aspect of the authorised project
No. 6. Clause 5, page 4 (new section 39A), lines 32 and 33—
Delete "an authorised project" and substitute:
the authorised project
No. 7. Clause 5, page 4 (new section 39A), line 35—
Delete "an authorised project" and substitute:
the authorised project
No. 8. Clause 5, page 4 (new section 39A), line 38—
Delete "an authorised project" and substitute:
the authorised project
No. 9. Clause 5, page 4 (new section 39A), lines 39 and 40—
Delete "an authorised project" and substitute:
the authorised project
No. 10. Clause 5, page 5 (new section 39B), lines 22 to 35—
Delete subsections (1), (2) and (3) and substitute:
(1) A project outline must be published by proclamation for the authorised project—
(a) containing—
(i) reasonable particulars of the principal features of the project; and
(ii) any information about the project required under the regulations; and
(b) specifying the land to which the project applies.
No. 11. Clause 5, page 5 (new section 39B), line 38—
Delete "a particular project" and substitute:
the authorised project
No. 12. Clause 5, page 6 (new section 39B), lines 5 to 8—
Delete subsection (6)
No. 13. Clause 5, page 6 (new section 39C), line 10—
Delete "an authorised project" and substitute:
the authorised project
No. 14. Clause 5, page 6 (new section 39C), lines 18 and 19—
Delete "an authorised project, or a particular part or aspect of an authorised project," and substitute:
the authorised project or a particular part or aspect of the authorised project
No. 15. Clause 5, page 6 (new section 39D), line 33—
Delete "an authorised project" and substitute:
the authorised project
No. 16. Clause 5, page 6 (new section 39D), line 35—
Delete "an authorised project" and substitute:
the authorised project
No. 17. Clause 5, page 7 (new section 39E), line 3—
Delete "an authorised project" and substitute:
the authorised project
No. 18. Clause 5, page 9 (new section 39I), line 13—
Delete "a proposed" and substitute:
the
No. 19. Clause 5, page 9 (new section 39I), line 15—
Delete "an authorised project" and substitute:
the authorised project
No. 20. Clause 5, page 9 (new section 39J), lines 23 and 24—
Delete "Port River Expressway Project" and substitute:
authorised project
[Schedule of the alternative amendments made by the House of Assembly]
Clause 5, page 5, (new section 39B(1)), lines 22 to 25—
Delete these lines and substitute:
(1) The Governor may make a regulation declaring a particular project to be an authorised project.
Clause 5, page 5, (new section 39B(2)), line 26—
Delete "proclamation" and substitute:
regulation
Clause 5, page 5, (new section 39B(3)), lines 34 and 35—
Delete these lines and substitute:
(3) A regulation must be made containing a project outline for the Port River Expressway Project.
Clause 5, page 5, (new section 39B(4), line 37—
Delete "proclamation" and substitute:
Regulation
Clause 5, (new section 39B), page 6, after line 8—
Insert:
(7) The Governor is not required to have the recommendation of the Commissioner for the making of a regulation under this section.

Consideration in committee.

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

That the Legislative Council do not insist on its amendments Nos 1 to 20 and agree to the alternative amendments made by the House of Assembly.

The Hon. CAROLINE SCHAEFER: The desire of the opposition at all times was to make this government publicly accountable, and the amendments that the House of Assembly has now sent back to us force the minister to declare authorised projects via regulation. We believe that that therefore makes his operations subject to public scrutiny. Under the regulatory system, there is the opportunity for the Legislative Review Committee to peruse those regulations and there is the power of moving disallowance of regulations. This is a compromise, but a compromise that we can live with. We believe that we have achieved our aims by making the minister accountable to the parliament and we will therefore not insist on our amendments.

The Hon. SANDRA KANCK: The Democrats were disappointed with the passage yesterday of the opposition's amendments to this legislation because, once again, it puts rail at a disadvantage to road. The amendments that have come back from the House of Assembly as an alternative are a slight improvement. As things were, a bill would have to come before this place every time the government wanted to do anything with rail infrastructure in this state, and that would have been a very counterproductive move.

This is a slight improvement in that any such proposal will be done via regulation, with parliament having the capacity to disallow it, and I would sincerely hope that the disadvantage to rail that the opposition has been putting in place over the last 24 hours or so will not be continued in the future by disallowance of any such regulations. Nevertheless, that is the power that exists. They may call it accountability; the Democrats see it as simply another hurdle that is being put in front of rail.

The Hon. A.L. EVANS: Family First supports the motion.

The Hon. T.G. ROBERTS: As has been recognised in both this council and the other place, the Port River Expressway is a major South Australian infrastructure project that has bipartisan support. The primary reason for bringing forward this legislation is that the Crown Solicitor advised the government that it does not presently have powers to undertake rail projects, in particular land acquisition powers for rail purposes. These issues need resolution before tenders are awarded for stages 2 and 3 of the expressway project. It is also the government's desire to undertake other rail projects in the future.

This legislation has therefore been framed in a way which not only facilitates completion of the Port River Expressway but which also allows other rail projects in the future. The minister in another place has acknowledged the contributions of members of both houses to the passage of this bill. The amendments change the current requirement of the bill for a project to be authorised by proclamation by the Governor to being declared as an authorised project by regulation. As members know, a regulation is disallowable by the parliament. This demonstrates that the government is not seeking to create extraordinary powers or to avoid being accountable to the parliament.

Motion carried.

ZERO WASTE SA BILL

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

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

Adjourned debate on second reading.

(Continued from 27 November. Page 761.)

The Hon. A.J. REDFORD: Firstly, I thank the government for changing the order and allowing me to speak at this time. Secondly, I thank the Hon. Carmel Zollo for her contribution in relation to this bill. I am a little disappointed that no-one else has sought to make a contribution on this bill, and I will wait with a great deal of interest to see the results of the vote. I note, with some great disappointment, that the Hon. Carmel Zollo is opposing this bill. In a speech that was hardly warm and gracious, she basically said that there is a joint committee looking at codes of conduct, and that ought to do.

I will explain why I think that that is a misconceived position. She also in this less than warm and gracious speech criticised me personally, and I think I ought to deal with that. She said:

> I am even more surprised that someone like the Hon. Angus Redford, who is in the habit of very quickly letting people know he is a legal practitioner as well as a member of parliament, would put his name to this legislation.

She criticises me because what I try to do, invariably, is behave to a high standard and, generally speaking when we deal with legislation that affects the legal profession, I disclose that I am a legal practitioner. I know that most members opposite would understand that. Indeed, the Hon. Nick Xenophon does the same thing on a regular basis, as does the Hon. Rob Lawson. We disclose our position, because we believe it is important that we do so, so that it is on the public record and the public can judge. So, I urge that there be some counselling in relation to the Whip as to why these disclosures are made and, in fact, unlike the Hon. Carmel Zollo, we would encourage disclosures of that type because, unlike members opposite, we want high standards of accountability in so far as the activities of members of parliament are concerned.

Having put that to one side (and it was a fairly easy hit to the boundary), I note that she then gave her reasons why the government opposes this bill. For those members who are not familiar with it, I point out that this bill—and, I must say, it received unanimous support in our party room—will ensure that members of parliament who are not ministers disclose in their register of interests the fact that they may well have received a taxpayer-funded trip. That is all. It is not a significantly hard job to say, 'I received a taxpayer-funded trip' and to put it on the register of interests. According to the Hon. Carmel Zollo when presenting the government's case, that is all too hard and ought to be opposed. The words that this would be an honest and accountable government are still ringing in my ears but they sound very hollow after a bit more than 18 months of the Labor government.

The Hon. T.G. Roberts: It would be hollow in your ears.

The Hon. A.J. REDFORD: When it comes to that sort of rhetoric, yes. We are in a spin over here. For a moment, we nearly believed you. I go home at night and counsel myself about how I should never believe—ever again—any statement made by the Australian Labor Party on the topic of honesty and accountability, and I think the Hon. Terry Roberts makes a very worthwhile observation that I should have a really good, hard look at myself. I can guarantee you, Mr President, that I will not be fooled by this government again when it gets into openness or accountability statements, either before elections or, indeed, in this parliament.

So, Mr President, how is it that the Hon. Carmel Zollo opposes this extraordinarily positive measure leading to better openness and accountability? I have analysed this speech in some detail and it goes—

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: No, it has never been before the parliament before. It goes something like this: we are an open and accountable government; the Hon. Angus Redford boasts that he is a lawyer (forgetting that I am actually trying to disclose an interest, but that was overlooked); we are terrific as a government; and we have set up a committee that is reviewing codes of conduct. This is a test for this government about its openness and accountability credentials. And with the first test it faces, what does it do? It says 'no', and runs and hides behind this parliamentary committee.

I would not seek to make a comment about this parliamentary committee except this: it has met in secret on every single occasion. You, Mr President, members of the media, members of the public and I have not yet had an opportunity to appear and watch how that committee operates. That is consistent with the government saying one thing, trying to bury honesty and accountability in a parliamentary committee, and then rejecting sensible legislative proposals such as this.

I cannot say just how disappointed I am in the hypocrisy of this government in opposing this legislation. Someone whispered to me that this is a stupid political decision on the part of the government and, when the Hon. David Ridgway said that to me, he was absolutely correct. We then get this piece of Orwellian logic—and that is the only way I can put it—that this is not a very good measure and that we should not have disclosure (and this is the effect of the government's

position on this bill). The honourable member then said—and I had to read this a couple of times:

> Disclosure on a register will not stop the perception of corruption or actual corruption. It will not identify nor render innocent the motive of a member in accepting a parliamentary or government appointment.

When the members' interests legislation went through, where was the Hon. Carmel Zollo, because that logic applies to every single disclosure that you, sir, and all of us make pursuant to this act? The logic is just not there. I can only describe that logic as Orwellian.

The opposition is firm in its resolve to approve the openness and accountability of government in this state. If this measure is lost, I will stand for a long time and shout from the rooftops about how this government is keeping secret independent and government members' travel that is paid for by the government. I know that we do not often talk about these things, but I will demonstrate by example why there needs to be public disclosure of this sort of travel. With those few words, I urge all other members to adopt the rhetoric of this government and impose some honesty and accountability, despite the government's objections.

Bill read a second time.

SUMMARY OFFENCES (LOITERING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 November. Page 557.)

The Hon. T.J. STEPHENS: I support the second reading of this bill, which will give our hard-working police the powers they need to provide protection to good law-abiding citizens. The police originally had these powers. They were unwisely removed by the Dunstan government. It is extremely disappointing that the Rann government has refused to support this bill. The government's attitude to this bill provides clear proof that the Premier's tough talk about law and order is just that—talk. Its opposition to this bill demonstrates its political hypocrisy. The main reason the government says it is opposed to this bill is its claim that it is unnecessary. I do not accept that that is its real reason for opposing the bill: the reason is ideological. It actually supports Dunstan's libertarianism as much as they loudly proclaim their toughness.

Soon enough, the public will realise their fork-tongued approach to the issue. The fact is that this law is necessary; it cannot be dismissed as a superfluous power. The proof was demonstrated only last week. A news report, dated 25 November, states:

> Secondary Principals Association President Ted Riley says the government should adopt a tougher approach as police are currently powerless to act. They're hamstrung by inadequacy of the laws to do anything about it. We have instances where some young thugs have been standing alongside school grounds, harassing, intimidating and because they're not actually doing anything, apart from the usual offensive gestures, there's not much they can do.

He is there referring to the police. The article continues:

> South Australia has got some laws but they need to be re-examined with a view to beefing them up. The real target here is to look at the racial vilification laws and see if something can be done there. Obviously what's happening in Adelaide at the moment is just not acceptable.

If police have the power to move on these people, why is the SPA calling for new racial vilification laws? The way to address issues such as the situation at Parafield High School is for a police officer to tell the would-be thugs to move on or be booked, then and there. The idea that the community should have to go to the trouble and expense of taking these thugs to court is ridiculous. The police should have the power to nip this sort of nonsense in the bud. I say that we should give the police the tools to do the job. We are sending them out with one hand tied behind their back. Let us untie their hands. I have spoken to a number of my friends who are operational members of the police force and they are all extremely supportive of this bill and, as I said earlier, they cannot understand why these powers were taken away in the first place.

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

EQUAL OPPORTUNITY (CARER'S RESPONSIBILITIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 November. Page 725.)

The Hon. J.M.A. LENSINK: I rise to indicate Liberal Party support for this bill, which was introduced by the Australian Democrats. The bill seeks to amend the Equal Opportunity Act in a straightforward measure to extend to carers the same rights as are already available to others on the existing grounds of sex, sexuality, marital status, pregnancy, race, physical or intellectual impairment or age. In regard to the definition, this bill defines carers in clause 4 as persons 'with responsibilities as a carer' requiring a formal commitment of a person to another person before they can be classed as a carer. Clause 4(3) provides that a person must:

> . . . provide care or support (other than on a commercial or voluntary basis) for another who is—
> (a) wholly or substantially dependent on the person for the provision of the care or support; and
> (b) a member of the person's family or household or a close acquaintance.

I understand that this definition is quite similar to the commonwealth legislation. The definition and the term 'carer' should not be confused, as it is often commonly confused in the community, with personal care workers who are paid to provide similar sorts of services, whether that is in aged care or community care settings, or with people who may assist as volunteers through a formal program. In regard to the technical aspects, the purpose of the Equal Opportunity Act is in addition, as its title suggests, to promoting equality of opportunity to facilitate the participation of citizens in the economic and social life of the community.

Participation in the community is particularly pertinent to carers who can often be isolated and burnt out because of the sheer amount of physical and emotional effort involved in their role. Areas in which discrimination will be made unlawful will include employment, agency contract work, partnerships, qualifying bodies, membership of associations and councils, education and trade of land, goods, services and accommodation. Of these, employment and housing are the most frequently reported areas of discrimination.

The bill contains 'out' clauses—that is in the vernacular—to protect the other parties who engage with carers if it leads to unjustifiable hardship. For instance, according to proposed new section 65C(3), if a carer is unable to perform the inherent requirements of their particular employment because of their caring duties, discrimination will not be unlawful.

These amendments to the act cannot be considered soon enough to minimise the potential impact on many South Australians. A recently published document from the Australian Institute of Health and Welfare entitled 'The future supply of informal care 2003 to 2013' predicts that the number of carers will increase. The number of carers in our community is already significant and, according to a 1998 ABS survey, which is some years ago, there are 216 000 carers in South Australia, of whom 41 800 are primary carers.

I would like to turn now to the Carers Association of South Australia and some of the related facts. Awareness and understanding of carers in our community has grown exponentially over the last 20 years. In South Australia in 1989 the Carers Association was established by a group of carers. It is now a strong organisation which provides a large number of services for carers and policy advice and it supports carers in many other ways. I would like to recognise the board and CEO Rosemary Warmington and her staff for their commitment to carers, and I thank Rosemary for her assistance in preparing for this speech. I also acknowledge that the former chair Carolyn Gray was awarded this year in the Queen's Birthday honours a Member of the Order of Australia for service to the community, particularly through the Carers Association of Australia.

Equal Opportunity Commissioner Linda Matthews made an interesting statement in her latest annual report about rights and duties she said:

> Of necessity, these two things go together. If we say that individual citizens have rights, then there needs to be concurrent mechanisms for enforcing those rights; this involves responsibilities for others.

Carers take on the role for a variety of reasons, including love and affection, obligations, family ties, lack of alternatives, cost, and so forth. However, anyone who becomes a carer takes on the responsibility for another human being.

It is right that we take this step to provide carers with rights to protect them. I concur with the Hon. Kate Reynold's statement in her second reading speech that caring is a private issue but a public matter. This has been recognised through the provision of funding through the carer payment, carer allowance, respite and other support programs. I would not dare to suggest that carers are flush with cash as a result. I indicate to the chamber that the Carers Association has recently conducted a survey which shows that 69 per cent of carers rely on a government payment or pension, and 46 per cent have a household income of less than $20 000 a year. The payments that are made to carers in a direct sense and also through respite and other programs is an indication that we have moved forward in these areas in the last 20 years, and it reflects the greater understanding of community need. These initiatives are also a tribute to those who have advocated for the cause over the years, particular the Carers Association, when numbers were quite smaller and the difficulties harder to recognise.

Carers are not volunteers in the way we understand that sort of terminology. Through their role, some carers may, for instance, prevent admissions to nursing homes. Arguments about carers and their contribution are often cast in economic terms, and in such an example it would be said that a cost that might otherwise be borne by the government is borne by the individual. However, such a decision to provide care at home usually has little to do with money. Such choices have much greater human dimensions involving family, culture, personal contact, flexibility and familiarity. In conclusion, I do not believe that through these amendments carers would seek to substitute what they have given up for the sacrifices they make but simply to try to even up the playing field. Steps such as this bill will address important areas that cannot be corrected with funding by giving carers formal protection and recognition in legislation. I commend the bill to the council.

Motion carried.

GENE TECHNOLOGY (RESPONSIBILITY FOR THE SPREAD OF GENETICALLY MODIFIED PLANT MATERIAL) BILL

Adjourned debate on second reading.

(Continued from 27 November. Page 734.)

The Hon. CAROLINE SCHAEFER: This bill was introduced some time ago; in fact, on 28 May this year. Its purpose is to ensure that the owners of proprietary rights in genetically modified plant material are held responsible for any damage or loss caused by the spread of that material, protecting farmers who choose not to grow GM crops (especially organic farmers) whose crops, through no fault of their own, become contaminated with GM seed. The bill would permit such a farmer to claim damages against any person who has a proprietary interest in the material, either in the form of a patent or ownership of intellectual property (for example, Bayer or Monsanto). It also aims to protect non-GM farmers from litigation by GM seed companies for unintentionally growing a patented GM seed.

Another aspect of the bill is that it puts pressure on GM seed companies to ensure that the guidelines for use of their products are adequate to protect against contamination of other crops. Such a company must be able to prove that it had produced comprehensive instructions on the measures to be taken to prevent spread, taken all reasonable steps to ensure that the instructions are always issued at the time of supply and prove that those instructions were not adequately complied with at the relevant time. Under this bill, no action could be taken against a person who owns or occupies land that has become unintentionally contaminated unless the court can be satisfied that the GM plant material was deliberately used to gain a commercial benefit. This would extend to any case where GM plant material was present on land before the commencement of this act.

The belief expressed by Mr Gilfillan is that farmers must be legislatively protected, otherwise they could be sued for damages, on the one hand, by marketers of product marked 'GM free' if there is contamination and, on the other hand, by agribusinesses that could sue a farmer who inadvertently grows a GM product and then harvests and sells it unknowingly. In a contentious case in Canada (Monsanto v Percy Schmeiser), the court found in favour of Monsanto. Mr Schmeiser has since travelled the world claiming that he was ruined by a multinational company. However, a reading of the judge's findings on the web indicates that Percy Schmeiser was, in fact, growing GM canola without a licence.

The parliamentary Select Committee on Genetically Modified Organisms tabled its final report in the House of Assembly in July this year. The Liberal Party agreed to support the recommendations of the committee as a basis for moving on this contentious topic, and there has been a reasonable compromise until such time as segregation protocols and cost responsibilities are worked out. The commonwealth has established a regulatory scheme for licensing genetically modified organisms that protects the health and safety of people and the environment. However,

there continues to be great contention about the marketing responsibilities and risks involved with growing genetically modified crops. The state government has released as a discussion paper a draft bill, which attempts to bring into legislation the recommendations of the select committee. I am grateful for having had an initial briefing from departmental officers, and I have been assured that a final draft will be completed and released for public consultation. The bill itself will obviously not be introduced before the February session.

The government has suggested that it will oppose all of this bill except for clause 4. That seems to me to be a strange decision for the government to have made, given that it intends to introduce its own most comprehensive GM bill in the next session. Since it is a bill with only four clauses (the short title, the interpretation and clauses 3 and 4), it would have the effect of being a one-section act, an act which specifically indemnifies farmers but which makes no attempt, for instance, to define what percentage is a contaminated crop. In some countries a crop is considered to be GM free at as high as 3 per cent contamination. There is no such detail in the Hon. Mr Gilfillan's bill and, as such, it would seem to me to end up being a particularly strange piece of legislation if just that one clause was all that was left in it.

The bill does not provide for damages for recklessly or negligently allowing the spread of GM to a neighbouring property and, as is the case with spray drift, it would be almost impossible for a seed company to prove that the instructions for its product were not followed on farm. It would also be almost impossible to prove who was responsible for the inadvertent spread of such material and it may, in fact, be neither the proprietary company nor the farmer. It could, for instance, be a contract carter or a contract reaper. The bill creates a liability for the loss or damage on the part of the person with a proprietary interest in the GM plant, rather than the person responsible for the offending conduct. It is a strict liability provision. It reverses the onus of proof.

While it provides a defence, it is structured so that it would be exceedingly difficult to establish and thus impracticable to rely on. Given the risk of legal liability that proprietary owners would face, this bill is in essence a back door way of declaring the state totally GM free. Minister Holloway has indicated that the government has sought advice from the Crown Solicitor, who indicated that successful prosecution would be almost impossible. The government previously indicated that in its forthcoming legislation it will attempt to protect farmers from liability if there is some inadvertent GM contamination, and this would be, I would think, most appropriate at point of sale; in other words, to protect individual farmers from being sued by purchasers.

The opposition will be opposing this bill, but we would like to make clear that that does not necessarily mean that we will oppose the government's bill, which I assume will be considerably more comprehensive. Although the minister has indicated that he is prepared to support clause 4 in this bill, as I have said, it seems to be particularly strange and isolated legislation to have a one-section act in isolation from any definition of, for instance, what contamination is. It also seems to me to be inappropriate to pass this bill prior to having those definitions outlined for us in the government's bill. I would like to add, however, that the opposition is quite open to considering such legislation indemnifying growers in the government's legislation when we can see more detail in the next session. We will be opposing this bill but not necessarily opposing its intent in the long term.

The Hon. NICK XENOPHON: I indicate my support for the Hon. Ian Gilfillan's bill. I, too, share his concerns about the potential liability impacts of genetically modified crops. I am concerned that farmers will not have sufficient protection. I know that my colleague the Hon. Caroline Schaefer has referred to the Schmeiser decision, but my reading of it is somewhat different in that Mr Schmeiser has been pursued through the courts by Monsanto in relation to GM seeds being grown on his property and seeds that he collected that apparently reached his property by wind or spillages by trucks travelling near his property. Information that I have received about research indicates that, in the United Kingdom, there is a very real concern about the potential liability impacts of GM crops. An insurance company spokesperson in the United Kingdom said:

> The worry is that GM could be like Thalidomide—only after some time would the full extent of the problem be seen.

A survey of insurance underwriters in the UK, carried out by the new campaigning group FARM, found that neither farmers considering growing GM crops or non-GM farmers seeking to protect their businesses from contamination by GM crops would be able to find anyone willing to give them insurance. A spokesperson for an insurance company said:

> 50 years ago insurers were writing policies for asbestos without a care in the world—now they are facing claims of hundreds of millions of pounds. The insurance industry has learnt to be wary of new things, and there is a real feeling that GM could come back and bite you in 5 years time.

These are matters that must be considered because, once we go down the path of GM, it is irrevocable. There is a very real risk that farmers who want to keep our clean and green image, who want to be organic farmers and who want to be non-GM farmers will not have sufficient legal protection and this bill goes a long way to protect those farmers. It is essential that this bill be passed.

The Seeds of Doubt, which is a publication on North American farmers' experiences of GM crops, relates to the legal issues of GM contamination in North America, the US and Canada. However, there has been a morass of litigation because of contamination and the struggle that farmers have had to keep their crops GM free or, where their crops have been contaminated, to get adequate compensation. It refers to a legal quagmire and issues of liability. Tom Wiley, a North Dakota farmer who came here earlier this year, sponsored in part by the Hon. Ian Gilfillan, stated:

> If I contaminate my neighbour's property, I am held responsible. Farmers need legal protection to ensure that if the biotech industry contaminates their crops with GMOs, the industry is held responsible.

This is a difficult issue but I believe it is essential that we have decent legislative protection for farmers in this state who want to keep their properties GM free. I refer to surveys carried out here in Australia that I think the Hon. Ian Gilfillan has referred to and also to surveys overseas that indicate a considerable degree of disquiet amongst farmers about GMOs and public concerns. With those words, I indicate my strong support for the Hon. Ian Gilfillan's legislation.

The Hon. IAN GILFILLAN: In concluding the second reading debate, I thank honourable members for their contributions and, in particular, acknowledge the recognition by the government of the importance of legal liability and its support for the second reading. It is my intention to move that the committee stage be adjourned until the new year. However, one of the critical elements of this particular

legislation was that, in earlier explanation of the government's position and its intended legislation, there was no identification—or, certainly, no emphasis—on the legal consequences and complications of this. It is with satisfaction and with recognition that I indicate that the Hon. Paul Holloway has acknowledged that it is an important matter and that it should be dealt with before we finalise legislation in this state on how to deal with the impact of genetically engineered crops.

This is not the time for debate on the pros and cons of genetically engineered crops. That has been given plenty of airplay both in this place and outside. The purpose of this bill is to signal, as clearly as we can in this place, that the parliament of South Australia will not tolerate the situation that has occurred in Canada, in particular, where agribusinesses have been able virtually to hold a legal monopoly and then sue for situations which I believe most South Australians would find totally unacceptable. If there is financial and economic damage for whatever reason, whether it is in loss of export market or loss of ability to market organic product, the legal liability should rest with the promoters of the seed that causes the problem. I do not believe anyone can deny that that is a balanced and sensible approach. I appreciate the indication of support from the opposition and, as I understand it, from the Hons Andrew Evans, Nick Xenophon and Julian Stefani. In those circumstances, if we are successful in the second reading, as I indicated, I will move that the committee stage be adjourned until the next Wednesday of sitting, which will be next year.

Bill read a second time.

ADJOURNMENT

At 11.33 p.m. the council adjourned until Thursday 4 December at 11 a.m.