LEGISLATIVE COUNCIL

Wednesday 21 July 2004

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

GLENSIDE HOSPITAL

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

TOXIC WASTE DUMP

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement relating to the proposed toxic waste dump in Victoria made today in another place by the Hon. John Hill, Minister for Environment and Conservation.

QUESTION TIME

SMALL BUSINESS ADVOCATE

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Leader of the Government a question about the former small business advocate.

Leave granted.

The Hon. R.I. LUCAS: Members would be aware, without my having to quote all the detail, of the claims that have been made in this chamber by the Leader of the Government in relation to the abolition of the position of the small business advocate. In summary, the former small business advocate has been moved to the transit lounge and is being moved to other environs as yet unknown, as I understand it. The government's defence has been that the Director of the Office of Small Business' newly appointed position by the minister would, in essence, be the small business advocate.

The opposition has a copy of the job and person specification that was provided to all candidates for the position of the Director of the Office of Small Business—an executive level A position with a contract of up to five years. Without reading all of the five pages of the job and person specification of the Director of the Office of Small Business, I summarise it by saying that it is clear that there is no indication from the job and person specification, contrary to the specific claims made by the Leader of the Government, that the director would be taking up the position of the small business advocate. In fact, I refer to one aspect of the job and person specification under the heading 'Reporting and Working Relationships' which states:

The Director—

that is, the Director for the Office of Small Business—

will report directly to the Executive Director of Industry Strategy and Liaison Division (ISL) and work closely with the Small Business Advocate as required.

I repeat that the job and person specification for the Director of the Office of Small Business specifically indicates that, in terms of the working relationship, the new director would work closely with the small business advocate as required, which is quite contrary to the specific claims made by the Leader of the Government in this place in relation to the new position.

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

The Hon. R.I. LUCAS: As my colleague the Hon. Mr Dawkins says, it will be very difficult if there is no small business advocate. My specific question to the Leader of the Government is: does he now acknowledge that he deliberately misled this council when he indicated that the Director of the Office of Small Business would be taking on the role of the small business advocate and that, through that whole process, all of the people who applied and who were subsequently appointed were aware of the statements that he had made?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I certainly do not accept the claim by the Leader of the Opposition. No doubt, when the position of Director of the Office of Small Business was advertised, that was the situation that existed at the time. The fact is that, as minister, I made the decision. There was significant discussion on this and the Leader of the Opposition has asked me questions previously. He has pointed out that there was a recommendation in the review of the old department of business, manufacturing and trade that the Office of Small Business Advocate be collocated within the office of the South Australian Ombudsman, and I indicated then that my advice was that the Ombudsman expressed concern about this proposal. It was after I became the minister that these issues were brought to my attention—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: No, it certainly was not the case. It was discussed, I must say, too, at the Small Business Development Council. I sought its advice at the first meeting I attended in relation to this matter and, as a result of listening to its views, I decided to take the action that I did. The situation now—

The Hon. R.I. Lucas: Did it recommend it?

The Hon. P. HOLLOWAY: No, it did not recommend it, but I raised the issue with it and it certainly did not have any difficulties with the Director of the Office of Small Business taking on that role. The duties of public servants do change from time to time. In relation to the executive officer of the Office of Small Business, his duties have now changed to include the role of small business advocate.

The Hon. R.I. LUCAS: I have a supplementary question. By what administrative means did the minister change the job and person specification of the Director of the Office of Small Business? Is he prepared to provide to the council the date of the change of the job and person specification and a copy of any evidence to indicate that he took that particular action?

The Hon. P. HOLLOWAY: It is not up to me to change a job and person description. I remember making the inquiry at the time that the small business advocate was appointed, and the advice I was given was that it is not a statutory position, unlike other similar roles in government: it was simply an office that was appointed, I believe, by former premier Olsen (I am not sure whether he was the premier or a minister at the time). However, the advice I had at the time was that it was done by some instrument. All that was required was some note from the minister to recognise the fact.

The Hon. R.I. LUCAS: I have another supplementary question. Is the minister indicating that a person who was

employed at executive level A on a contract of up to five years on a specific job and person specification has now had that job and person specification changed by someone other than the minister and, if so, who changed the job and person specification? Will the minister provide evidence of the changed job and person specification to back the claims that he continues to make in this council?

The Hon. P. HOLLOWAY: The Director of the Office of Small Business simply has taken on the additional duties, and I discussed that matter with him. I think I indicated in answer to a question—

The Hon. R.I. Lucas: You said you did not instruct him.

The Hon. P. HOLLOWAY: What do you mean by 'Instruct him'?

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Mr President, I will answer the questions. If the leader has any questions, he can ask a supplementary, but I will answer the question in my own words—I do not need the help of the leader. In relation to the Director of the Office of Small Business, I had discussions with—

The Hon. R.I. Lucas: How did he find out?

The Hon. P. HOLLOWAY: The matter was first raised, as I said, with the former director of the department because a response had come back from the Ombudsman in relation to the original proposal from the review of the DBMT. I discussed that matter with the former director. As a consequence, the matter had been put on the agenda of the Small Business Development Council and I discussed it with them and, as a result, the decision was made that the position of the small business advocate should be the same as the Director of the Office of Small Business. There is nothing particularly complex about that matter.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I assume that the director has communicated that. Obviously, it is a matter that I have discussed with the director of the office. I actually talk to the executives in my department, and I talk to them regularly.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, some of them might, but I hope they are aware that they are in breach of the Public Sector Management Act if they do so.

Members interjecting:

The Hon. P. HOLLOWAY: Look, the Leader of the Opposition has tabled a confidential CV, and that is a gross breach—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: He had a CV in relation to the director of the department. That is a gross breach, and one that is quite damaging to the state of South Australia, and I will explain why.

Members interjecting:

The Hon. P. HOLLOWAY: Members opposite should be aware of the damage that they do, because one of these days they could be held accountable for it. What has happened in releasing the information is that the confidential CVs of any person who applies for a senior position in this state could end up in parliament, and it will be a deterrent for qualified people applying for jobs in this state. That is something that that man is responsible for. He is doing that.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: But, you used it. You were prepared to put your political interests ahead of those of South Australia, and you have been doing that for 22 years in this place. When it comes to your personal self-interest and the interests of South Australia, you always act in a selfish way. The Rob Lucas way always comes first. We all know what the Leader of the Opposition is like: he is the person who will not apologise for the enormous damage he did to South Australia through the electricity sale and the $300 million in additional costs imposed on the community. We are still waiting for the apology in relation to that, so why would we expect any better behaviour from him?

The PRESIDENT: I would like the Hon. Mr Lucas to be heard in silence. I am dealing with his own backbench on this.

The Hon. R.I. LUCAS: Hear, hear, Mr President! I have a supplementary question. Is the minister refusing to provide any written evidence of the claims that he has made in this place in relation to this issue? In doing so, does he therefore accept that he is open to the charge of having deliberately misled this council in relation to this particular issue?

The Hon. P. HOLLOWAY: I have not misled the council in relation to that matter. The Director of the Office of Small Business is the small business advocate. If the Leader of the Opposition cannot understand that, that is his problem.

The Hon. J.F. STEFANI: I have a supplementary question. Will the Leader of the Government table any written communications that he has made to the particular person concerned?

The Hon. P. HOLLOWAY: I will examine that matter.

Members interjecting:

The Hon. P. HOLLOWAY: Well, members of the opposition have been very free in using FOI. We now have some of the most unfettered FOI laws in the country, thanks to this government. Perhaps they can go and seek it under that if they wish.

APY LANDS

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

Leave granted.

The Hon. R.D. LAWSON: For some years there has been talk of the merits of improved police services on the Aboriginal lands, not only in South Australia but in the adjoining lands in Western Australia and the Northern Territory. In August 2003, at a meeting of the standing committee of attorneys-general, the solicitors-general of the Northern Territory, South Australia and Western Australia gave a presentation on a proposal to facilitate the delivery of services to police, probation, parole and corrections across the lands in all three states. As a result of discussions that occurred between police authorities, two projects were identified: one at Docker River, Waracoona, which is west of Uluru, and another at Kintore in the Northern Territory.

A report published in Western Australia in connection with the Docker River project states that the project there would consist of a combination of police officers from the Northern Territory, South Australia and Western Australia sworn as special constables in all participating jurisdictions who would thereby be able to respond to service calls on an interjurisdictional basis across borders. The officers could charge, bail and prosecute any offenders pursuant to the relevant law. A court appearance would be facilitated at the

most convenient location, and magistrates could apply the relevant law extraterritorially where appropriate. Any term of imprisonment could be served at the closest facility applying to the law of the sentencing jurisdiction. The project at Kintore is similar. The Northern Territory government has already funded the establishment of a police complex at Kintore, and it has recently announced that that station will be manned by personnel from both the Northern Territory and Western Australia.

I believe that the minister has already revealed to the council that there have been discussions with the South Australian authorities on these projects, but there has been no announcement at all of any progress which has been made in allowing South Australia to participate in these initiatives. My questions to the minister are:

1. What is the reason for the delay in South Australia's participating in an inter-jurisdictional arrangement of this kind?

2. When can we expect a decision in relation to whether or not South Australia will participate?

3. Does the South Australian government support initiatives of this kind?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his well-informed questions and background in relation to the justice and police measures that have been taken up in the Northern Territory and Western Australia. The state of South Australia has been a part of the justice strategy that is being developed now with Western Australia and the Northern Territory. I understand that the issues to which the honourable member refers have been handled adequately within the states and territory in terms of adapting to the changed nature and attention that has been placed on the remote north-west of our state, the far west of Western Australia and the south-west corner of the Northern Territory which, basically, covers the Anangu Pitjantjatjara Yankunytjatjara lands.

South Australia's responsibilities were to build up a police presence within our section of the state and to look at any shared services that might be able to be provided, and that shared jurisdiction may be something that could be considered. As I have mentioned, the police holding cells need to be improved within the APY lands, and extra police will have to be provided as part of our responsibility in policing our part of the state. I can report that seven extra police have been provided within that region.

There has also been extra DCS participation in policing community service orders within that region; and, as I have mentioned in this council previously, extra focus will be given to the refurbishment of some of the police holding cells within the communities that have the largest concentration of population. Those discussions are continuing with the other state and territory. I would expect that more cooperation and sharing of services will be contemplated and that the justice bodies of the two states and territory will continue to try to come to terms with the sharing of those services. We are also looking at shared health services (particularly mental health services) operating out of Alice Springs into the north-west of our state.

So, we are starting from a low base. It is work in progress but, over time, we will get the combination of infrastructure, human service delivery, policing and the justice system right so that the remote regions of this state can expect service delivery that reflects the remoteness of the region but provides a form of justice that this state can be proud of in relation to its relative responsibilities between the states and the territory.

EXTRACTIVE AREAS REHABILITATION FUND

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the Extractive Areas Rehabilitation Fund.

Leave granted.

The Hon. CAROLINE SCHAEFER: I have been informed that new guidelines for the operation of the Extractive Areas Rehabilitation Fund came into effect on 1 July this year. Many earthmovers and others affected were not informed of these changes until less than a month before they came into operation. Mine operators have been told that there is no guarantee that funds will be available when application is made for rehabilitation and that funding will apply on a 'flat earth' style of calculation—that is, that the same amount of rehabilitation funding will be made available whether it is for a sand mine or a hard rock mine, for instance. I think it is quite obvious that the cost of rehabilitation of a deep hard rock mine is considerably greater per cubic metre than for a sand mine. My questions are:

1. What access will quarry operators have to the funds already held from the old extractive areas rehabilitation fund?

2. Why will there be no sliding scale remuneration which is more appropriate to the actual costs?

3. How much consultation took place before the implementation of these changes, and with whom? In particular, how much consultation took place with private operators?

4. Will the minister make available all submissions from stakeholders made in response to the government's discussion paper?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): As the honourable member suggests, a discussion paper was released some time in the first half of last year, I think it was, and responses were due towards the end of last year, so there was significant discussion. The final proposals for the Extractive Industries Rehabilitation Fund were subject to my finally signing off on those. I asked the department to undertake some consultation with industry and it was always my wish to have that fund up and running by 1 July. However, following feedback from the department's discussions, the fund is not yet operating because I am not satisfied that the proposals as they are put meet all the needs and, as a consequence of some of the submissions that I have received, it is my intention to make some changes to the scheme that will reflect some of the views that have been put.

So, I am very keen that the new scheme should be up and running as quickly as possible. I would have preferred it to have been at the start of this month. However, following the issues that have been raised with me, I wish to further that matter as soon as parliament rises. Finalising the EARF is one of my top priorities for next week. I think the scheme, as it has been proposed through the department, is fairly close to the final version, but there are some issues—and the honourable member has raised a couple—that I want to see addressed before the new scheme is established.

ELECTRONICS INDUSTRY

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Industry.

Trade and Regional Development a question about the electronics industry.

Leave granted.

The Hon. CARMEL ZOLLO: In 2002-03 the electronics industry was estimated to be worth $2 billion in revenue and $600 million or $700 million in exports. I understand that the Electronics Industry Association projects that the industry's revenue is capable of growing to $8 billion by 2010, and it is hopeful that exports will grow to $3.2 billion by 2010—which is quite an increase considering concerns have been raised regarding a skills shortage in this industry. My question is: what is the government doing to assist the electronics industry to overcome the skills shortage?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): Just last week I visited the Electronics Industry Association, which was established in 1998 to represent the interests of the state's electronics industry and to create and implement the industry's strategic plan. While I was visiting the EIA, I had the pleasure of handing over a cheque for $200 000. The association, in turn, has committed to matching that $200 000 grant through industry cash contributions. This grant will be used by the Electronics Industry Association to further develop its strategic plan to meet the industry targets of $8 billion in revenue and $3.2 billion in exports by 2010. These targets are based on the 2004-05 figures provided by the electronics industry of $3 billion revenue and exports of greater than $1 billion. They also strongly align with the key objectives of the State Strategic Plan.

One of the major projects will be the establishment of an Electronics Industry School in South Australia by 2005. The Electronics Industry School is an initiative that has arisen as a direct response to the skills shortage identified in a skills survey that was conducted for the industry in the year 2000. The first electronics industry strategic plan to 2005 identified three flagship or high priority initiatives and a total of eight strategies to drive the industry forward. The skills strategy was to expand the skilled work force in areas of industry strengths. It is still one of the flagship strategies for the revised plan to 2010.

The Electronics Industry School will be a key deliverable from the skills strategy. The Electronics Industry Leaders Forum (ILF) chaired by Mike Heard of Codan (a very successful company) has done an excellent job of driving this initiative, and the Industry Leaders Forum fully supports it. The school is an industry initiative which was developed in close collaboration with all three South Australian universities and TAFE and which is aimed at addressing the skills gap and training requirements of the electronics industry. It is a means by which courses provided by the universities can be shared. It will allow articulation of pathways to TAFE and possible bridging courses will be considered.

Industry involvement in training through mentoring, summer vacation work, scholarships and cadetships is envisaged. An industry internship of two one-week courses per annum is currently being planned and costed. Access to the Electronics Industry School will be provided to external students, and the tailoring of courses to suit particular industry needs is planned. Specialist chairs, proposed and supported by industry, are envisaged, and the use of specialist third party course providers will also be considered. The Electronics Industry School will be run by an Electronics Industry Association secretariat. A fully-costed business plan for the next three years for the Electronics Industry School will be signed off by October 2005, and an industry advisory panel will be established consisting of academia, industry, the EIA, the Industry Leaders Forum, the Electronics Industry School, DFEEST and the Defence Science Technology Organisation.

The EIS will be promoted by the EIA in primary and secondary schools and the overseas student market. Universities and TAFE will promote the Electronics Industry School at tertiary institutions. A student information brochure will be prepared, and this will be used as the basis of an MOU with the universities. The Electronics Industry Association is also aiming to meet several specific objectives of the state strategic plan with the grant by:

- producing a cluster map for the industry to identify and address capability gaps in the sector;
- developing a proposal on a zero waste strategy for the industry;
- collecting baseline data on the number of students studying electronics as part of a strategy to arrest declining enrolments;
- establishing and maintaining a database of electronics companies in South Australia; and
- promoting the industry in line with the state export strategy.

I would suggest that those are all very commendable and valuable objectives of the Electronics Industry Association. I think that the electronics industry in this state is a quiet achiever. It does not really receive recognition for the very considerable strides that it has made over the past decade.

The Hon. R.I. LUCAS (Leader of the Opposition): Sir, I have a supplementary question. As the minister might be aware, the Electronics Industry Association had been funded for some years at a level of $150 000 a year. The minister has indicated $200 000 for the coming year. Can he indicate whether he has given any commitment for the calendar years 2006 and 2007 in relation to continued funding for the important work of the association?

The Hon. P. HOLLOWAY: On the contrary, there is no commitment. In fact, what I am seeking from the Electronics Industry Association—and, indeed, all these bodies—is that, ultimately, they should become self-sufficient in terms of the programs that they are running so that the scarce taxpayer dollars can be used in those areas where they can be best utilised. Certainly, I am very pleased to support the electronics industry for this year as I understand that, in the past, there has been communication with the industry about the long-term funding and the expectation that, ultimately, the industry will become self-sufficient. That is obviously a matter that we will address in future years but, certainly, I make no secret of the fact (in fact, I made it very clear to this and other industries) that, ultimately, we would expect these industries to become self-sufficient. But, of course, in terms of achieving important goals, government will always consider providing support where that is warranted.

PUBLIC CONTRACTING

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Leader of the Government in this chamber a question about public contracting services.

Leave granted.

The Hon. IAN GILFILLAN: The trend of governments, both federal and state, to do more and more work by awarding contracts to the private sector is well known, and it is also well known that those very same governments then keep all

or most of the details of those contracts secret under the commercial sensitivity provisions of both federal and state freedom of information acts. It is clear that there is always some tension between the principles of open and accountable government and the claim by the private sector for commercial sensitivity, largely aided and abetted by the governments that engage them.

In *The Australian* newspaper of 15 March this year an article appeared that outlined that the federal government was seriously considering opening up that legislation to allow more scrutiny, and I quote from that article, as follows:

> The contracts of private companies working for the federal government could be open for public scrutiny under reforms to Freedom of Information legislation flagged by Attorney-General Philip Ruddock yesterday. Governments and companies would have less scope to use the commercial-in-confidence exemption in the federal FOI Act to block the release of documents that would allow the performance of private contractors to be assessed.

The article quotes Mr Ruddock as saying:

> We would certainly contemplate ensuring documents held by a contractor that relate to provision of a service to the government might be subject to the FOI Act.

It is interesting that this matter is already flagged by a conservative Liberal federal government. I indicate that, no doubt, the leader is aware that our own Freedom of Information Act, schedule 1 part 2 section 7, has a similar commercial sensitivity provision which protects what is seen as the public accountability of private contractors contracting for the government. Does the leader agree that, where private contractors provide services for the government, these activities should be openly accountable and, if need be, accountable through FOI? Will the government promote making similar provisions to increase the transparency of government operations where private sector contractors are used and as has been signalled by the federal government?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will ask my colleague responsible for this area to determine what information is actually available and what requirements we have on that. I know that there have been significant changes over recent years to what is disclosed, and I believe that we have one of the most open systems of disclosure in the country. I am not an expert in those matters as it is not my portfolio, but I will get that information for the honourable member. I think that he will find that we are already well ahead of most states in relation to what is disclosed. I will get that information for the honourable member.

The Hon. A.J. REDFORD: I have a supplementary question. Does the minister agree that the release of information that might be critical to the government should be classified as against the public interest?

The Hon. P. HOLLOWAY: I am not quite sure what the honourable member means. He says 'critical to the government'. Does he mean 'critical of the government'?

The Hon. A.J. Redford: Critical of the government.

The Hon. P. HOLLOWAY: I suppose that would depend on the context of the information. There is obviously a process—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Well, I could envisage a case.

Members interjecting:

The Hon. P. HOLLOWAY: Obviously, in relation to FOI cases, it may very well be a confidential report to cabinet or something. It depends exactly what the criticism was. I am trying to think of an example off the top of my head. Suppose it related to security measures, and, if the publication of that were to draw attention to issues of security, that might put security at risk. That might well be an example of what would need to be considered. The honourable member can come in here and glibly ask for opinions on what are apparently simple questions but, obviously, one cannot envisage the context—

The PRESIDENT: Opinions are out of order.

The Hon. P. HOLLOWAY: Yes. That is right, and probably for very good reason. It is in the standing orders, Mr President. If the honourable members wishes to give specific information, he can do so; but, quite obviously, the fact is that information that could be construed as critical to the government is released under FOI every day. This government is certainly far more open than the—

Members interjecting:

The Hon. P. HOLLOWAY: Come on! Even if this government closed the vaults for the next two years we would not even come close to doing what the Leader of the Opposition did. One only has to look at the answers to questions that are provided in this place. Our performance—

The Hon. R.I. Lucas: You still can't tell me who is on your staff. Two years have passed. Who is working for you?

The Hon. P. HOLLOWAY: I can give you that information. The opposition—

Members interjecting:

The Hon. P. HOLLOWAY: Go on, use up your time; I do not care. It is your time. Go ahead. Use the time.

Members interjecting:

The PRESIDENT: Order! Honourable members will maintain the dignity of the council.

The Hon. P. HOLLOWAY: The Freedom of Information Act has been very extensively reviewed by this parliament and by parliamentary committees. The guidelines have been given in-depth consideration by many members over many years. The legislation has been considered exhaustively by parliament and, as a consequence of that, I believe we have very good FOI laws which strike the right balance between protecting information which could be damaging—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —to the public of South Australia. The balance between—

Members interjecting:

The Hon. D.W. Ridgway: We cannot hear over here, Mr President.

The PRESIDENT: Order! The Hon. Mr Cameron is breaching standing order 165. If he wants to have a conversation, then he should have it somewhere else.

The Hon. P. HOLLOWAY: As I said, the freedom of information laws we have in this state are as a result of an exhaustive process. They have been regularly reviewed by select committees and the parliament itself and, as a consequence, we now have a balance between protecting the public interest and ensuring that information is publicly available. I believe that we have the balance pretty well near right.

The Hon. IAN GILFILLAN: I have a supplementary question. Unfortunately, I was unable to hear all the answer, but my supplementary question is relative to my original question. Does the minister agree that contracts for private contracting for providing public services should be available for public scrutiny?

The Hon. P. HOLLOWAY: As I said, I think some changes were made some years ago in relation to what is available, but I undertook earlier to obtain that information from the minister responsible for the Freedom of Information Act, and we can find out exactly what is available. Obviously, contract negotiations are something that need to be conducted in confidence, which I think all members would accept, but what happens at the end of the contract is another matter. It is my understanding that some changes were made several years ago in relation to that, but I will obtain the information and provide a considered response to the honourable member.

DRUGS

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development, representing the Minister for Police, a question about drugs in the community.

Leave granted.

The Hon. A.L. EVANS: According to a recent article in *The Australian* on Wednesday 21 April, the manufacture of illicit drugs such as ecstasy, cocaine, speed, ketamine, crystal meth and GHB is reported to be growing easier.

The PRESIDENT: Order! The Hon. Mr Cameron and the Hon. Mr Stefani are in breach of standing order 181. I can hear their conversation but, unfortunately, I cannot hear the Hon. Mr Evans. Members should pay attention to their responsibilities. If the Hon. Mr Evans could speak a little louder, it would be helpful, too, I believe.

The Hon. A.L. EVANS: Anne Bressington from Drug Beat said on 5AA that a major area in which the community can help the police is through identifying those who manufacture the drugs and passing that information on to police. However, this can only be done through public awareness of the manufacture of drugs. She also says that people are bringing chemicals into their home and that people can have crystal meth laboratories even in the boot of their car. My questions are:

1. Is the government considering allocation of funds to improve the capacity of the community to assist police in identifying suspected drug production in the community?

2. If so, what is the strategy to do this; and how much funding will be allocated to this for community education?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will refer those very important questions asked by the honourable member to the Minister for Police in another place and bring back a reply.

SHOP TRADING HOURS

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Industrial Relations, a question about shop trading hours.

Leave granted.

The Hon. J.M.A. LENSINK: As reported in the *Sunday Mail* of 11 July, the upcoming Christmas period will see a unique situation in which the public holidays will force retail closures for a period of four consecutive days—25 to 28 December 2004—and for six of the 10 days between 25 December and 3 January 2005. This potentially has negative implications for the supply of groceries during a period of high consumption, particularly perishable fresh foods, and it also has a potentially negative impact on retail sales. The Minister for Industrial Relations has stated that he 'would need to be convinced of the merits of legislative change' before altering the current arrangement. My questions to the minister are:

1. What other considerations besides those outlined above does he need to consider?

2. Does he agree that to keep retail outlets closed over this period will be detrimental to the economy?

3. Which stakeholders have been consulted in relation to this matter?

4. When will the government advise the community of its decision in relation to the Christmas period closures?

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.

BEACHPORT BOAT RAMP

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation and the Minister Assisting the Minister for Environment and Conservation a question about the Beachport boat ramp.

Leave granted.

The Hon. D.W. RIDGWAY: As members are aware, I have asked a number of questions in the past about the Beachport boat ramp. To refresh members' memories I would like to quote from a letter to the Presiding Officer of the Environment, Resources and Development Committee from the minister (Hon. J. Weatherill) in November last year. It states:

> Attached for the Committee's information is a copy of an approval I issued under Section 49 of the Development Act on 11 November 2003. . . On this point Transport SA had made it clear that a boat ramp was a temporary location until a permanent location is identified.

Further on in the document there are a number of comments from interested parties and government agencies. The first comment is from the Wattle Range Council's Development Assessment Panel, which advised that it supports the proposed development. Under 'Agency Comments' it states:

> The Environment Protection Authority concluded that no seagrass will be directly impacted by the construction of the program. . . However, there is a risk of environmental harm from a marine perspective, arising indirectly from extra sedimentation which may occur during the construction of the coffer dam and any associated dredging undertaken.

It then goes on to the Department of the Environment and Heritage, which has indicated support for the proposed temporary facility. The Coast Protection Board objected to a long-term facility, and it has not considered a temporary facility. It is interesting to note that the cost of this development was $120 000 and, therefore, did not exceed $4 million, so there was no requirement for public notice. Interestingly, the Mayor of the Wattle Range Council announced that the proposed temporary two lane boat ramp would be for a 10 to 15 year period. Later on, some of the comments raised by the community include that sand build up will be inevitable and will lead to dredging, which will lead to increased council rates. They have concerns that the temporary ramp will become permanent. Who will pay for its removal? Finally, Glen Point is an industrialised area and the preferred site for a new permanent ramp as it will move traffic out of the town and reclaim the best beach for swimming.

This morning I was contacted by a constituent who lives in the area and who raised a number of concerns with me.

The first was that the pontoons at the boat ramp that provided access in out of boats are now sitting on the sand at the beach. Where there was originally 6 feet of water for launching boats, there is now a 6 foot high sand dune. In fact, this constituent said that you could walk out there in your slippers, not get them wet and have a barbecue in the morning. The seagrasses that were supposed to be protected by the geotextile sea wall have now all gone, and dredging has now taken place five times since it was constructed six months ago, and it will be dredged for the seventh time next week. My questions are:

1. Who is paying for the substantial and frequent dredging?

2. Is it safe and appropriate practice to haul the sand that is laden with seawater through the township of Beachport by truck?

3. Will the government intervene and build a boat ramp in an appropriate location?

4. Who will pay for the removal of the temporary boat ramp and the remediation of the Beachport foreshore?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for asking these important questions. I am very familiar with the construction to which he refers and the controversy that surrounded it from its conception. I visited the boat ramp recently and I did find some evidence of silting. The concept is particularly new, and I must say that, before the conceptual plan was drawn up, I was aware of the controversy about its siting. Three sites were being considered by the community. One site was located on the eastern side of the drain outlet, and the other one was down at Glenn's Point, which most local people believed was the better place to site the ramp.

Certainly, no consideration was given at that time to any larger construction (such as a marina) when people were talking about the construct. The conceptual plan has changed somewhat. I will endeavour to bring back a reply to the honourable member after referral to the relevant minister. I would like to point out to the *South-East Times* that I replied to those questions about the Beachport boat ramp (which keep coming through this chamber) on behalf of the Minister for Environment. They are not my framed replies to the questions that are being asked.

INDIGENOUS ENVIRONMENTALISTS

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

Leave granted.

The Hon. J. GAZZOLA: I have been amazed at the antics and the complete stupidity of the opposition in relation to the proposed nuclear waste dump in the state's north. It beggars belief that members of the opposition are still supporting the nuclear waste dump even when their federal colleagues have seen the light. That light is that the people of South Australia did not and do not want a national nuclear waste dump in this state. I am also aware that, apart from the Premier, this Labor government and some 80 per cent of the public of South Australia have been opposed to the plans proposed by the federal and state Liberals. This included a group of indigenous women from the Coober Pedy area. Will the minister inform the council about this group of indigenous environmentalists?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for the opportunity to be able to reply to such a well-researched question. All Aboriginal people are environmentalists. They are the original environmentalists. They live and are a part of the land. In particular, this group of women, who are under-resourced and, certainly, without a lot of finance to support them, put together a well-constructed opposition to the proposed dump based on their understanding of land and land management through their Aboriginal eyes.

The group to which the honourable member refers is the Coober Pedy Kupa Piti Kungka Tjuta (a group of senior Aboriginal women of the Yankunytjatjara Antikarinya groups). The group has been battling against the establishment of a radioactive waste dump for the past six years, and I am sure that they will be celebrating along with many other environmentalists over the federal government's backflip. I would also like to put on the record the names of some of the women who took part in that organisation's opposition: Ms Ivey Makinti Stewart received a Premier's Award on 4 July 2004 for her amazing achievements (she is the oldest founding member of the group and one of the senior elders within the Kungka Tjutja group); Mrs Eileen Wingfield received the 2003 Goldman Environmental Prize for Outstanding Environmental Achievement in Islands and Island Nations awarded in the United States; Eileen Kampakuta Brown; Eileen Wani Wingfield; Eileen Unkari Crombie; and Angelina Wonga who, like many of the women, was in Wantjapita with her family when the bomb went off at Maralinga and Emu Junction.

Many Aboriginal people were affected by those tests and blasts. Some were removed from their lands in an orderly way, some were removed in a disorderly fashion, and some people were left to fend for themselves because of their wandering tribal ways at the time and they were unable to be notified or found. So, there are still victims of the bomb tests within the central Australian region and the northern South Australian area. These women were born on the land and know the land. Although many of us would see it as desert, the area is culturally and spiritually rich, and they have a particular interest in it. They have no financial interest in any of the issues: their interest is strictly in relation to the environment and their own spirit and culture. That is why they have taken up these issues, and I congratulate them all.

I have met many of them over the years when they have visited some of us as individual members of parliament and as Legislative Council members, bringing their case and presenting it in such a way that you have to listen. Certainly, you are not obliged to take on many of your constituents' issues but, in relation to the way these women lobbied, it was a worthwhile experience. So, they and many other members of conservation groups throughout South Australia are silently (and some less silently) celebrating the decision.

The Hon. D.W. RIDGWAY: I have a supplementary question. I was very interested in the minister's reply—

Members interjecting:

The PRESIDENT: Just the question.

The Hon. D.W. RIDGWAY: How many of these people live near what was the proposed site for the nuclear waste repository?

The Hon. T.G. ROBERTS: When we say 'near' in terms of our metropolitan understanding, probably none of them lived at ground zero, but as far as living in the areas—

The Hon. A.J. Redford: How many lived within 20 kilometres?

The Hon. T.G. ROBERTS: There you go! There is a

metropolitan judgment; 20 kilometres is a metropolitan judgment. As far as I am aware, all of the women whom I have named lived within reasonable proximity. If the honourable member looked at the coloured shadows indicating where the fallout drifted throughout Australia, he would find that living within 1 500 kilometres was close proximity to ground zero. These women lived far closer than that.

The Hon. J.F. STEFANI: I have a supplementary question.

Members interjecting:

The PRESIDENT: Order! I cannot hear the Hon. Mr Stefani.

The Hon. J.F. STEFANI: Will the minister advise whether these people have made representations in relation to the removal of the waste that the Keating government stored at Woomera and, if so, what are their concerns in relation to that matter?

The Hon. T.G. ROBERTS: I thank the honourable member for his question and can report that those women did raise the issue of the dumping of nuclear waste in the northern region.

DISABILITY SERVICES

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 Disability, a question regarding the Brain Injury Network and the Brain Injury Options Coordination Agency.

Leave granted.

The Hon. KATE REYNOLDS: As members who were at the Moving On rally on the steps of Parliament House today will know, increasing attention is being paid to the provision of services for people with a disability. The Brain Injury Options Coordination Agency has about 1 700 clients on its books and operates with a budget of less than $10 million compared with, for instance, the Julia Farr Centre which has, I believe, about 200 clients and a funding base of approximately $24 million plus some private funds and investment revenue. The Brain Injury Options Coordination Agency assists people who have a significant and permanent disability as a result of an acquired brain injury as well as supporting those people's relatives, many of whom are their carers.

This organisation, represented by the Brain Injury Network, has been inundated by people with physical, neurological and intellectual disabilities, who are concerned about future funding and service provision. Their concerns, they tell me, focus on accommodation, home support, community day activity programs and other options programs. There are also concerns for people with high support needs who are cared for currently by family members.

The Australian Institute of Health and Welfare has confirmed that the incidence of intellectual disability is similar to disability from an acquired brain injury, yet funding is disproportionately in favour of intellectual disability. The Brain Injury Network fears that services for people with an acquired brain injury will also be cut, with the release of the state government's disability services framework (which I believe will occur next month). As part of that plan, adult physical and neurological options coordination and brain injury options coordination are to be auspiced by Julia Farr Services, and this has caused some people to fear that there will be a cut in services. My questions are:

1. Given the similar numbers of people with intellectual disability or an acquired brain injury, how will the minister ensure equity of service provision for people with an acquired brain injury?

2. Following the auspicing by Julia Farr Services, how will the independence of options coordination and choice of service providers for consumers be protected?

3. What is the current status of the discussion paper, promised some two years ago, regarding the provision of services for people with a drug-induced or alcohol-induced brain injury?

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.

MATTERS OF INTEREST

ENTREPRENEUR OF THE YEAR

The Hon. CARMEL ZOLLO: It was my pleasure to represent minister Holloway at the 2004 Entrepreneur of the Year—South Australian Finalists' cocktail reception last month. The evening was an opportunity to introduce the 2004 central region finalists and for guests to celebrate and recognise South Australian entrepreneurial spirit, as well as join with other business leaders and entrepreneurs to encourage and support the South Australian entrepreneurs as they embarked upon their program. The Entrepreneur of the Year award was established by Ernst & Young in the United States in 1986 and is internationally recognised as the pre-eminent awards program of its type. Award recipients are selected by independent regional and national judging panels, which include leading members of the business community, academia and past award winners. After a rigorous selection process, finalists are short-listed in five regions throughout Australia prior to each region's awards ceremony, before the national awards in Sydney on 2 December.

There are six award categories, and entrepreneurs are assessed on entrepreneurial spirit, innovation, personal integrity and influence, financial performance, strategic directions, and national, as well as global, impact. The South Australian central region's finalists were presented on the evening after the guest speaker, Robert Champion de Crespigny, gave an insightful, well-informed and humorous speech. The finalists were:

- Ross Almond—Copy World
- Allister Ashmead and Cameron Ashmead—Elderton Wines
- Jason Bender and Richard Jacka—Chimo Pty Ltd
- David Bohn—Foursticks
- John Chaplin and Damien Mair—Fusion
- Andrew Downs—Sage Automation
- Kent Hart—Adventure Tours Australia
- Martin Haese—Youthworks Group
- David Heaslip—Century (Innovative Manufacturers)
- Peter Karidis—Airnet
- Michael Kohn—Air South
- Frank Seeley AM—Seeley International
- Peter Teakle—Collotype Labels

- Jim Whiting—Badge Constructions
- Jim Zavos—EzyDVD

I understand that the finalists are judged in four competitive categories of retail, consumer and industrial products; services—including financial business and property; technology, communications, e-commerce and life sciences; and young entrepreneur. There are also two categories that are award recipients in the master category and the social not for profit category. This year's finalists were described as among some of the most dynamic and successful entrepreneurs in the country. Mr Chris Sharpley of Ernst & Young described the program as aiming to recognise the people behind some of the country's most successful and emerging companies and said that being a successful entrepreneur involves more than just managing a business.

The economic value of entrepreneurs is undoubtedly immense, but their journey to success is inspirational and cannot be underestimated. He rightly pointed out that it involves risk, passion, determination and vision—qualities that too often go unrecognised—and that, in most cases, entrepreneurs have had to overcome many obstacles and fight for their dreams. Mr Sharpley is also right in believing that it has been only in recent years that the importance of entrepreneurial pursuits in Australia has gained recognition and has increasingly been recognised by industry, government and community leaders.

I know that I am joined by all members in this chamber in congratulating the finalists undertaking the program prior to the awards ceremony on 12 August, where the winners of the four competitive categories and the two award recipients will be announced. Human endeavours, energy, commitment and vision are what drive us as a society, and such contributions should not go unrecognised. It sees us all enjoy both social and economic success and makes us a better society.

As I indicated earlier, the program was established by accounting firm Ernst & Young, and this is the fourth time that the business awards program has been brought to Australia. Whilst the program receives sponsorship from several sources, Ernst & Young is the main sponsor, and I particularly acknowledge the commitment of Mr Tony Smith, Regional Managing Partner, Mr Chris Sharpley, Partner and Regional Director, Entrepreneur of the Year Program, and Ms Kate Maloney, Regional Manager, Entrepreneur of the Year Program.

TRADE UNIONS

The Hon. D.W. RIDGWAY: Today I rise to speak on the declining relationship between the union movement and the Australian working public. Yesterday, the Hon. Terry Stephens raised several serious issues about one particular union's neglect of its own members. This is symptomatic of the way in which members of unions have been treated and is a major factor in the decline of the union movement in recent times. Supposedly, the Labor Party's ethos is one of solidarity. It is the principle upon which the Labor Party and the union movement are based. That is why they both believe so strongly in collective bargaining, because for workers to get any real benefits they must unite and share to be as one. People should also remember that the Labor Party of Australia is a creature of the union movement. It does not represent the workers. It is a parliamentary delegation of the union movement.

The unions often claim to represent the workers but, increasingly, this is a fallacy. I am sure that, in times gone by, this type of unionised industrial organisation served a useful purpose. However, the union movement has gone from covering nearly 40 per cent of the work force in 1992 to just barely holding onto between 20 per cent to 25 per cent in recent years. If we go back to the halcyon days of the 1950s and 1960s, well over half the working population was protected by union membership.

So, why is it that unions are suffering from an irreversible trend of irrelevance? The truth is that, over the past 25 years, the Labor Party has dominated government at state and federal level. Intuitively, unions should have been more relevant than ever, yet this time has marked the most rapid decline in their membership.

I looked into the union that the Hon. Terry Stephens mentioned in his question. I found it interesting that, even though a union claimed it could not pay for funeral expenses out of its funeral fund for a man who had been a member for 20 years, because of financial hardship, the union's Victorian branch managed to scrape together and give the Australian Labor Party about $27 000 last year. I find it incredible that the union movement—a movement founded on the principle that you look after your own and all share in the spoils—did not provide assistance for a division of the same union so that it could ensure the continuity of service to its members. I also find it incredible that it would put bankrolling the ALP ahead of providing for a 20-year veteran of the union movement. It is no wonder that membership is now declining.

Currently, the ALP receives about $5 million from unions or, rather, 100 per cent of the union movement's donations go to the Labor Party due to the fact that they are one and the same. The ALP has perpetuated the myth onto Australian business that it must have politically neutral donation policies so that neither party is really favoured by any business. This is fine except that the ALP does not demand the same from unions. This means that the ALP benefits by some $5 million from political neutrality, and this does not even take into account the absolute disgrace that is the centenary house scandal. The unions have ceased to act as a protector of the working man and are now serving as a fundraising division of the Labor Party. I do not know why anyone would join a union under these circumstances.

In reality, there has been an unhealthy and immoral mix between the ALP and the union movement which has served to disenfranchise not only the people of South Australia but also ordinary union members. Most of the members of parliament who are in the Labor Party belong to a union, and the unions are aligned factionally to different people. Where do all the ALP parliamentarians lie? I think that they serve too many masters. First, you must serve your party but, if you decide to disagree with its policy, you are kicked out of the Labor Party. They must also represent the unions and the factions of parliament as well, because the only reason that they have joined unions and factions is to ensure their preselection. Of course, well down the list, at some stage, they will pay some lip-service to the people of South Australia. How does this help the average person who joins a union to give himself some security? It does not. That is why the union movement is in terminal decline.

AUSTRALIAN EDUCATION UNION WOMEN'S CONFERENCE

The Hon. G.E. GAGO: It is fabulous to have this opportunity to portray unions in a far more positive context. I was recently privileged to open the Australian Education

Union's Women's Conference on behalf of the Hon. Stephanie Key, Minister for the Status of Women and for Employment, Training and Further Education. The theme for this conference was 'Making Women's Voices Heard'. This involved exploring ways that women's voices can be heard in the workplace, the union, the AEU's forthcoming enterprise bargaining agreement, and in society generally. The conference was open to women in all sectors of the public education system—early childhood, schools, TAFE, Aboriginal education workers and hourly paid instructors.

As I said, on the evening of the launch, one way that the South Australian government is contributing to having women's voices heard is the release of the 'Statistical Profile—Women in SA' report. The Premier's Council for Women produced this report to inform readers of the gains made by the women's movement in recent times and the areas where significant advances are yet to be made. Some alarming statistics in this resource give a picture of the disadvantages that women still face in achieving equality in our society. For example, poverty remains a major problem faced by single women supporting a family. In 2001, women made up 82 per cent of single-parent households. Only 42 per cent of parents in one-parent families are in paid employment. More startling is that, in 2001, women headed 84 per cent of single-parent households with dependent children with an income under $300 per week. Predominantly, women head single-parent families and survive on or below the poverty line. Unfortunately, women's work in the home continues largely to be unpaid and undervalued, attracting very little status in our society.

The statistics concerning working women are also disturbing, particularly to those of us who have spent a great deal of our time fighting for women to achieve pay equity in the workplace. Women make up 44.3 per cent of South Australia's work force, yet women's total earnings represent only 67.9 per cent of total male earnings. These statistics demonstrate that women's work still remains undervalued and under remunerated compared to men's work. Even when more women now complete university courses than men, this trend has not resulted in pay equity between the sexes. Another matter of concern to teachers is the recent attempts by the federal government to amend the Sex Discrimination Act to give special scholarships to male teachers in order to increase the number of male role models in classrooms, or allegedly so. This legislative change was triggered by a New South Wales Catholic school which failed in its attempt to gain an exemption to the Sex Discrimination Act to advertise male only teaching positions. Labor opposed this amendment in the Senate for very sound reasons.

We do not believe that creating a number of male only scholarships will address the problem of the lack of male teachers. The teaching profession historically has been a female dominated profession. The reason why men are not attracted to the teaching profession, particularly primary school teaching, is that it is relatively low paid work. Also, male teachers leave the classroom because of promotional opportunities in the administrative area. Pru Goward, the Howard government's sex discrimination commissioner, has proposed that, to attract and retain greater numbers of male teachers in the classroom, the federal government should increase teachers' pay and promote a representative number of women into senior administrative positions. Furthermore, offering teaching scholarships on the basis of gender rather than merit could have a more adverse effect on students than the lack of male role models, given that the best person does not necessarily get the job.

In closing, what continues to be evident is that a great deal of hard work still needs to be done. Women must remain committed to achieving pay equity to break down the glass ceiling that still acts as a barrier for many and to improve the living standards for single mothers who battle to bring up children, many in poverty. I congratulate the AEU and particularly those female delegates who participated in the AEU's women's conference which looked at dynamic ways of making women's voices heard.

PAROLE BOARD

The Hon. R.D. LAWSON: Readers of today's *Advertiser* would have been alarmed to see a report on page 11 under the heading 'Premier pathetic, says the parole chief'. In this article, Frances Nelson QC, the Chair of the Parole Board, has launched what the newspaper describes as 'a stinging attack on Premier Mike Rann'. Members ought be aware that Frances Nelson QC has been chair of the Parole Board for the past 20 years. This is not some easy sinecure: it is not some position that many people in our community would seek to occupy. It is a difficult and thankless task. 'Parole' refers to the situation where a prisoner is released from gaol before the expiration of his or her sentence on conditions, the breach of which would require the person to return to prison to serve the balance of the term.

The Correctional Services Act, under which the Parole Board is established, provides that all offenders who are sentenced to 12 months or more have a non-parole period set by the court. If they are sentenced to less than five years, they are eligible for parole at the end of their non-parole period, but they must agree to comply with conditions set down by the Parole Board. Those who are sentenced to more than five years have to apply to the Parole Board, and the board must make a decision about their release and the conditions of release, if they are to be released. For those sentenced to life imprisonment, Executive Council must approve the Parole Board's recommendations.

Parole has been much in the news over recent times because this government has sought to politicise this important service. This government has recognised, and quite appropriately, that the community is looking for greater safety and is fed up with criminal behaviour and is anxious to ensure that those who breach our law are appropriately punished. But, we do have a mechanism that is laid down in legislation, and this government has not sought to significantly alter that legislation, although there are a number of amendments under discussion presently before the house. The fact is that the Premier has seen political advantage in denigrating the work of the Parole Board. He has, not only in this area but elsewhere, looked for scapegoats, whether it was his undermining of the Office of the Director of Public Prosecutions, his abusive behaviour towards the legal profession or his abusive behaviour evidenced only last week towards the judges of the Supreme Court.

I commend Frances Nelson QC for her courage and commitment. Anyone who knows Frances Nelson would know that she has a particular interest mental health and, because of the experience she has had over many years, she has a great understanding of the fact that many offenders in our correctional institutions have mental health issues. The attack by Frances Nelson QC quoted in today's paper is one that is entirely justified. The report states:

. . . the government will not put enough into mental health

resources in relation to people who offend.' Ms Nelson said. She said the government is 'being dishonest with the public' by claiming 'they are being our big defenders'.

That is the championing by the Premier of his own policies. Ms Nelson is quite correct to describe them as follows:

But they're actually not doing anything. It's just so much hot air.' she said. If anything they're starving areas of resources that are absolutely essential to prevent people being hurt.

By ignoring the mental health issues involved in the corrections services and by attacking not only Ms Nelson as chair but also Mr Philip Scales (about whom I will be speaking later today) as deputy chair, the Premier is undermining the system of law and order in this state. We deplore his grandstanding and his superficiality.

ADELAIDE RAILWAY STATION

The Hon. SANDRA KANCK: On 11 June, *The Advertiser* reported that TransAdelaide had removed all rubbish bins from the Adelaide Railway Station as part of the latest assault on terrorism. The bins were identified as potential receptacles for explosives which could kill hundreds of people if detonated during peak hour. TransAdelaide's general manager stated that the measure was prompted by the Madrid bombing, heightened security concerns about Australia and the recognition that land transport had not received the same consideration as air and sea transport.

Without wanting to downplay the horror and injustice of innocent people caught in terrorist attacks, the decision to remove rubbish bins from the Adelaide Railway Station is alarmist and illogical. It is alarmist because the odds of an Australian being the victim of a terrorist attack on Australian soil are very long. Acts of terrorism have occurred; the Sydney Hilton bombing in 1978 springs to mind, although I am unaware of any such incidents having taken place in South Australia. But, because of the stance of our Prime Minister in licking the boots of the United States, it is possible that some acts of terrorism might occur within our borders in the future. That does not alter the fact that the likelihood of an attack upon the Adelaide Railway Station is extremely low.

Statistics about terrorist acts on US soil are instructive here. Film-maker Michael Moore, scourge of the Bush administration, tells us that in the years 2000, 2002 and 2003 there were no fatalities in the US from terrorist attacks. Even in the tragic year 2001, the chance of a US citizen dying in a terrorist attack on their home soil was a minuscule 1 in 100 000. Meanwhile, they had a 1 in 6 500 chance of dying in a car accident. Terrorism directly touches only a small number of people. TransAdelaide's decision is illogical, in part because the bombs that devastated Madrid were placed on the trains, not in bins at the station. Hence, nothing has been done by this action to dissuade a copy-cat attack. But, it is also because at each of the major exit points from the Adelaide Railway Station there are rubbish bins.

I can only assume that these bins are not under the control of TransAdelaide. Despite the removal of bins from the floor of the station, the possibility of peak hour commuters being caught in an explosion on the doorstep of the Adelaide Railway Station continues. However, if one subscribes to the terrorism theory, even removing the bins just outside the train station will not stop the terrorists because those same peak hour commuters stream past bins outside Government House, the Museum, the Art Gallery, the State Library, Adelaide University and the University of South Australia.

Decimating peak hour commuters at the Adelaide railway station would make no less a propaganda coup than peak hour commuters outside our cultural institutions. Other potential targets could be an Adelaide Oval test match crowd, a finals crowd at Football Park, the WOMAD audience, *Ring* Cycle patrons, Tour Down Under supporters and pre-Christmas shopping crowds in the mall or the airport. Are we going to remove rubbish bins from all these places and events? Indeed, should bins be removed from anywhere that large crowds are likely to gather? Does anyone really believe or imagine that a determined terrorist would be stymied by a lack of bins?

Car bombs, bombs in bags, letter bombs, human bombs, domestic airliners, rocket-propelled grenades—the list of explosive delivery devices is extensive. The sheer impossibility of preventing terrorist attacks has profound implications for our response. We must not be spooked into abandoning our way of life and, in a small way, that includes putting our rubbish in a bin. In the big picture, that means our right to freedom of speech, freedom of movement and freedom of association. Anything less is to bow to the terrorists' agenda.

GOVERNMENT, PERFORMANCE

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to address some comments to the government's claims to being open and accountable, and the Leader of the Government repeated those claims again today. Questions still remain unanswered on the *Notice Paper* to this minister and other ministers on difficult issues such as the names of all officers currently working in the office of the Minister for Industry, Trade and Regional Development; whether the minister can list any positions that are currently vacant; and whether the minister can indicate the salary and any other financial benefit included in the remuneration package for those officers.

Also, for almost two years now questions still remain unanswered in relation to the total cost of overseas trips undertaken by the minister and staff since 5 March 2002. There are unanswered questions in relation to issues as difficult as any expenditure incurred since 5 March on renovations to the minister's office and the purchase of any new items of furniture with a value of greater than $500. Literally dozens of other questions have been languishing on the *Notice Paper* unanswered by this minister and his colleagues, as I said, for almost two years.

For the minister to stand up in this council and expect anyone to believe his claim that this government is the most accountable and open government this state has ever seen, quite frankly, reveals the leader to be delusional. Also, I refer to the answer to a question I finally received after, I think, 12 to 18 months in relation to concerns I had raised about the appointment of deputy under treasurer positions within the Department of Treasury and Finance. The answer that has now been provided means that the Treasurer has deliberately decided that he will not answer the following question: did the Under Treasurer meet with the Treasurer prior to the appointment of Mr Grimes and advise the Treasurer that Mr Grimes had a very close association with the Labor Party? The Treasurer refused to answer that question.

The next question was: does the Treasurer deny having had a number of conversations with Labor colleagues and others that two Labor men had been appointed to two deputy under treasurer positions? The Treasurer refused to answer that question. The next question was: does the Treasurer deny having had a conversation with Mr Don Farrell? I interpose

to say that, when the parliament returns, I am sure that colleagues will be interested to hear some information in relation to recent manoeuvreings within the Shop Distributive and Allied Trades Association, its impact in the offices of various ministers and the potential impacts on preselections as a result of people taking offence at actions that might have occurred in recent times. The question is: does the Treasurer deny having a conversation with Mr Don Farrell about Mr Grimes' application for the position prior to his appointment? The next question is: was the Treasurer advised that the Shop Distributive and Allied Employees Association had provided some financial assistance to Mr Grimes for university studies?

All the Treasurer was prepared to say in a collective response is, in summary, that he had been advised that the appointment was conducted in accordance with the relevant guidelines and that he as Treasurer had not sought to influence the appointment of senior staff. Of course, they were not the questions I put to the Treasurer. The Treasurer has deliberately refused to answer the questions, and the reason is that the information put on the public record is fact and incapable of being denied by the Treasurer without his opening himself up to challenge in relation to misleading the parliament. I repeat that it has been the Treasurer who has been describing the deputy under treasurers in the terms that I have put on the public record.

As I said previously, I do not know Mr Grimes other than by what I have heard of the Treasurer's descriptions of him to other contacts, both within the broader Labor movement and the Labor caucus. I know that the Under Treasurer advised the Treasurer of Mr Grimes' close association with the Labor Party. The Treasurer has not denied that. I place on the public record the fact that the Under Treasurer had confided in senior Treasury officers the nature of that background and discussion, and it is on the public record. The Treasurer easily could have denied all of that by saying, 'No, no and no', but he is not able to do that because the information is, indeed, 100 per cent accurate.

Time expired.

NUCLEAR WASTE STORAGE FACILITY

The Hon. SANDRA KANCK: It is with great pleasure that I move:

That this council congratulates the people of South Australia, the Rann government, the Kupa Piti Kunga Tjuta and a small band of dedicated environmentalists on their collective effort in forcing the Howard government to abandon its plan to locate a national nuclear waste dump in South Australia.

Last Wednesday, 14 July 2004, the South Australian people won a remarkable victory, a sweet victory, and a great environmental victory. That was the day that the Howard government announced that the political pain of locating a national nuclear waste dump in South Australia was too great for it to bear. As a consequence, the Howard government chose to cut and run from its longstanding policy of locating a nuclear dump within our borders.

This issue has had quite a long history. A radioactive waste dump consultation began under the Hawke Labor government in the late 1980s and was ultimately abandoned. Then a newer version and a new attempt began in, I think, 1997 under a Howard Liberal government. The Rann government, I have to say, was very quiet in 1993 when the Keating Labor government moved waste from St Marys in New South Wales to Woomera, and there is an inconsistency in its nuclear position with its strong support for uranium mines in this state.

For a while, the Democrats were the only party in this state opposing the low-level dump, and it was very pleasing to see the Labor Party come out against the dump at the last state election. Once they had arrived at that decision, both the Premier (Mike Rann) and the Minister for the Environment (John Hill) proved to be tenacious, effective campaigners against the dump, and the state government was well led on this issue. I would also like to include a special mention for the unknown person who devised the public park legislation. It was a stroke of genius. If Labor Party members could pass my regards onto whoever that person was, I would appreciate it.

I also give some credit to the Liberal Party in government for ruling out a medium level dump in South Australia, although that is where my acknowledgment of its contribution ends. In supporting the location of a low level dump in South Australia, it acted in a distinctly un-South Australian way. Only a government has the resources to challenge in court, and the Rann government, to its credit, did take that step of legally challenging the acquisition of Arcoona Station by the federal government. As it first took legislative action and then court action, with associated media coverage, public opposition to the dump grew. Nevertheless, without strong community-based opposition the government would not have been able to take this stance. It had a strong base on which to build.

There are numerous people and groups that have been crucial in delivering this outcome for South Australians. My motion mentions a small band of dedicated environmentalists. They come from a variety of backgrounds and organisations, but they had a common goal. The first group of people I recognise are those who organised the people's conference in, I think, April 2000. A two-day conference was held at the University of Adelaide, organised by Greg and Tess Were, Laurie Toogood and Cathy Searson. I apologise if I miss any of the people who were in that group. The conference attracted about 1 000 people.

Much of the focus at that stage was on a proposal by Pangea for an international high level waste dump but, nevertheless, Lucas Heights waste was part of the equation. People who spoke at that conference included Dr Gavin Mudd, Jean McSorley from Greenpeace, internationally known anti-nuclear activist Helen Caldicott, indigenous spokespeople Kevin Buzzacott and Rebecca Bear-Wingfield, and representatives from Sutherland Shire Council where the Lucas Heights reactor is located. That particular conference got things going here in South Australia and focused people's minds on the issue of South Australia's being a dump for radioactive and nuclear waste, whether it be from other states or internationally.

The next group that I acknowledge is the Coober Pedy Kunga Tjuta. They were determined campaigners against the dump. At least three of the sites in contention were on their traditional land. They took their fight to Canberra and met with federal MPs to put their case. The Conservation Council of South Australia was one of the first groups to publicly recognise the work of the Coober Pedy Kunga Tjuta by choosing them to receive its annual Jill Hudson Award. Subsequently, Eileen Kampakuta Brown was given the Order

of Australia, and she and Eileen Wani Wingfield were awarded the International Goldman Prize, which is an environmental equivalent of the Nobel prize, for their work in fighting against the dump.

In 2001 they thought they had won the fight, but it was against only one of the locations. Things went quiet during the federal election, but then the proposal quickly came back onto the front burner, and the Coober Pedy Kunga Tjuta came out fighting again. I was one of many people, along with my federal colleague Senator Lyn Allison and my state colleague the Hon. Kate Reynolds, who attended last year's Kulini Kulini ('Are you listening') bush camp near Coober Pedy to hear why the traditional owners of that land were so profoundly opposed to the dump's location. They really felt that people were not listening to them. The efforts of these women gave this issue a national, and even an international, focus. Their engagement in the political process was crucial.

The next people and group that I want to mention is the Australian Conservation Foundation and its activist, David Noonan. The ACF gave this issue a priority that it deserved by employing a campaigner on this issue, namely, David Noonan. For anyone who has not met him, Dave is a walking encyclopaedia on this issue. As well as campaigning here in South Australia, he travelled across New South Wales on the two proposed routes for the waste from Lucas Heights. He visited all the towns along the way, convened public meetings and really stirred up a hornet's nest of opposition to the Lucas Heights waste travelling across New South Wales in the way that was proposed.

Another group that needs to be acknowledged is the Campaign Against Nuclear Dumping and its chief activist, Dr Jim Green. Jim Green has a real passion about this issue, particularly with respect to its connection to the upgrading of the Lucas Heights reactor. This saw him move to South Australia and, effectively, to put his life on hold so that he could campaign full-time on this dump. In fact, it is good luck for us in South Australia that it became his life. Jim has worked in partnership with Dave Noonan and, at the many meetings and workshops I have attended on this matter, Jim and Dave—Dave and Jim—were always there. I cannot in this job give my attention to things only nuclear, but these two have always kept me informed with newsletters, media releases and emails about what is happening. They have campaigned ceaselessly against the dump, and its failure is in no small part due to their efforts.

I cannot talk about the various groups that are involved without acknowledging the work of my own party. At both federal and state levels, the Democrats have led the debate amongst all the political parties. Senator Lyn Allison, who is the Democrats' federal environment spokesperson, has made sterling efforts to keep this and other nuclear-related issues on the federal parliamentary agenda with motions, questions, research and her committee work. Senator Natasha Stott Despoja, the Democrats' federal spokesperson on science and technology issues, has repeatedly and consistently drawn the connection between the pressure for the upgrade of the Lucas Heights reactor and the pressure for this waste dump. As she said in a media release when the Prime Minister began to show weakness on this issue:

> Radioactive waste disposal remains a critical issue, and again raises the issue of why a new reactor is being built at Lucas Heights when these issues have not been resolved.

I have also long advocated that, in a federation, the only democratic solution to storing waste was to have each state look after its own. I remember about five or six years ago being interviewed by Murray Nicoll on the afternoon program on 5AN. It was shortly after I had announced the Democrats' position, which was that each state should look after its own waste. I remember him remarking that, rather than the Democrats having an approach of 'Not in my back yard', we were saying, 'Yes, put it on our front verandah.' It was a position which I put to my federal colleagues some years ago and which they were happy to adopt and, over time, I have seen other groups, such as the ALP, adopt the same position.

I have long argued for the waste that is created at Lucas Heights to be stored at Lucas Heights. That is where most of Australia's radioactive waste is produced and that is where the expertise to look after it resides. Importantly, keeping the waste where it is produced would eliminate the risk of an accident in its handling and transportation. Members may recall my 2002 state election promise, when I said that, if this waste dump went ahead in South Australia, I would put all the resources from my office that I could into opposing it, that I would support the groups that opposed the dump and that, if the waste rolled across the borders on trucks, I would be there to lie down on the road in front of them. I have to say that that is one election promise that I am very happy to not have to keep.

Earlier this year, at the ARPANSA hearings, I appeared before the organisation and put the Democrat position opposing the dump. I have always argued that, as sure as night follows day, the location of a low level waste dump would be followed by the collocation of a high level waste dump. I reasoned that no federal government would put itself through the political pain that the Howard government has done and alienate two different sections of the electorate, first in South Australia and then in another state. Last week's swift decision to rule out locating the low level dump in another state, which would have doubled the political pain, is proof that my logic was sound. So, not only have we prevented South Australia from being the dumping ground for the nation's low level waste but we have also ended schemes to inflict high level waste upon us.

In acknowledging the many people and groups involved, I congratulate the people of South Australia. It was a great victory for the people of South Australia because, without our healthy scepticism and pride in our state, John Howard and company would have ridden over the top of us. By being willing to care about and vote to protect the remote north of South Australia, we have prevented an injustice being foisted upon us. So, why did the federal government capitulate? It would be nice to think that it was based on principles and ethics but, in the end, it was pure pragmatism. The decision in the first place to move Lucas Heights waste to an out of sight, out of mind location—what I have always called the 'oosoom' factor—was always a political one. Leaving the waste at Lucas Heights ran the risk of an electoral backlash in Sydney, and there were more seats at stake in Sydney than there were in Adelaide. Fearful of losing seats in Sydney, the Howard government was determined to move the waste away from Lucas Heights. Science ran a very poor second to politics in this decision. Politics was the driver in the decision to dump the waste in South Australia and politics was the driver that caused the Prime Minister to walk away from it.

The Australian Conservation Foundation and Campaign Against Nuclear Dumping had already signalled that they would campaign in two of the three Liberal held marginal seats in South Australia. The Rann government had also made it clear that it would continue to make it an issue. Three Liberal held seats in the past six to eight months have become

more marginal, and John Howard knew that: nothing more, nothing less. The federal government has finally adopted the Democrats' policy. We are now in the position that I have advocated for years, that is, each state being responsible for the waste that it creates.

The Hon. Ian Gilfillan: Do you think it will be a trend?

The Hon. SANDRA KANCK: I hope it will be a trend. This is a classic case of bottom-up and top-down approaches working side-by-side to achieve a result. All of the bodies and people involved on their own would not have been able to turn this around. Collectively, we have done it.

The Hon. G.E. GAGO: I am pleased to rise in support of this motion. Last week's stunning backflip by the Howard government to abandon plans for a national nuclear waste dump is an historic victory for South Australia. This backflip is proof that the Prime Minister will do whatever he thinks it takes to hold onto the Liberal marginal seats in this state. More importantly, it demonstrates what we can achieve when the community, business interests and the state government work together for a common good. All South Australians had a stake in the battle to stop the dump, and all South Australians can take credit for this victory. After all, the great majority did not want the dump built in this state in the first place. It is a win for our tourism industry, which invests millions of dollars in promoting our pristine Outback and wilderness areas and for industries, such as the food and wine industry, which depend on South Australia's clean green image.

The government has been fighting this dump since its very first day in office and at every step since then the community support has been overwhelming. It was a fight to stop South Australia from being the national dumping ground for radioactive waste, to stop state rights from being trampled, to stop land being seized against our will, and to stop our future as a clean green state being destroyed. The fight has been worth it. The federal government has now been dragged reluctantly, kicking and screaming, to listen to the majority of South Australians and has abandoned this dump plan for South Australia.

The only noticeable group that supported Howard's dump was the state Liberal opposition—that misguided lot sitting opposite. I note that the opposition is yet to change its position. When will the state Liberals follow their political masters in Canberra and announce their backflip? I congratulate and acknowledge all those who have been involved in the long battle against the dump, particularly the campaigns of the Australian Conservation Foundation and the Kunga Tjuta senior Aboriginal women of Coober Pedy. I am very pleased to support the motion and to commend the government and the community on achieving this victory for South Australia that will be appreciated by generations to come.

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

That the debate be now adjourned.

The council divided on the motion:

AYES (9)

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

NOES (7)

Gazzola, J.	Gilfillan, I.
Holloway, P.	Kanck, S. M. (teller)
Reynolds, K.	Roberts, T. G.
Zollo, C.	

PAIR(S)

Schaefer, C. V.	Sneath, R. K.
Redford, A. J.	Gago, G. E.

Majority of 2 for the ayes.

Motion thus carried.

The Hon. SANDRA KANCK: I move:

That the debate be taken into consideration on motion.

The council divided on the motion:

AYES (8)

Gago, G. E.	Gilfillan, I.
Holloway, P.	Kanck, S. M. (teller)
Reynolds, K.	Roberts, T. G.
Sneath, R. K.	Zollo, C.

NOES (11)

Cameron, T. G.	Dawkins, J. S. L.
Evans, A. L.	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I. (teller)
Redford, A. J.	Ridgway, D. W.
Stefani, J. F.	Stephens, T. J.
Xenophon, N.	

PAIR(S)

Gazzola, J.	Schaefer, C. V.

Majority of 3 for the noes.

Motion thus negatived; debate adjourned.

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

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I move:

That the report be noted.

This is the final report of the select committee, which was originally established in 1999. It produced two reports prior to the last election, and it produced a third interim report in May 2003 when it discussed the possible options for the regulation of betting on horses, sports and events over the internet. Those three interim reports, I believe, constitute a significant contribution to the debate we have had in relation to interactive gambling over that period. It has been a field that has been changing very rapidly over that period. During the past 12 months the committee has been awaiting the commonwealth review of the Interactive Gambling Act 2001—the commonwealth act that relates to interactive gambling. As the report points out, recently the federal minister said a report on the review will be tabled shortly. However, where there is a pending election in the commonwealth parliament, even if that report were to be tabled prior to the federal election, it is highly unlikely that any action would be taken in the time available.

It is therefore clear, and the conclusions of the committee are, that the federal government will not intervene any further in the regulation of gambling over the internet and therefore that regulation by default becomes the responsibility of each state and territory government. I concur with the view of the majority of the committee; the benefits of adopting a national regulatory model with measures to address problem gambling

are supported by the majority of the committee and, therefore, the committee would prefer a unified approach. However, it appears that, whereas the vast majority of states in this country agree, one territory does not support reaching a unified approach. Therefore, unfortunately, this means that, as the committee concludes, in the absence of such an approach it is up to each state and territory to pursue its own regulatory model.

Those of us on the committee would be well aware that, in relation to gambling over the internet or anything to do with the internet, it is highly unlikely that any regulation at state level is likely to be effective. It is questionable whether regulation over the internet would be effective even at a national level, given that the internet is an international medium. It is very difficult to regulate unless it is done internationally, and it is even more difficult if it is left at the state level. That is the unfortunate state of play, given there is probably little that the committee can do further. That is why we have wound up the committee and why this brief report is tabled. However, the issues in relation to internet gambling will not go away. It is now up to individual state jurisdictions to consider their position. My personal view is that I hope the states will try again to work together to get a common approach. I would also express the hope that the commonwealth government also plays its part and that whichever government is in office after the next election changes its mind and becomes more involved in ensuring that we have some effective regulation of interactive gambling. So, I commend the report to the council.

The Hon. NICK XENOPHON: This committee has a long history, and its genesis arose over five years ago in a motion that I moved. I acknowledge the support and encouragement of the Hon. Angus Redford at that time and his continuing support for the position that we both have in relation to this issue. I have previously spoken at other times when reports have been tabled by the committee and stated that my position is that having a system of regulation for internet gambling could well be illusory. The final report fairly sums up that the dissenting statement of Mr Redford and me in that such measures for regulation may well be illusory and may mislead the public into believing that interactive gambling is a safe activity.

I do not resile from my position in relation to this issue at all. I believe that accessibility of gambling products, particularly electronic gambling, is a key driver in gambling addiction. The best way to nip this problem in the bud, given that most transactions take place via credit card, is to give the player or the participants the right to void a transaction. That is, in fact, something that has occurred to my direct knowledge, because I have spoken to individuals who have had problems with internet gambling. About 2½ years ago I assisted a constituent who lost a significant amount of money on an illegal online casino somewhere in the Caribbean or Central America.

With the aid of her very able gambling counsellor, Vin Glenn, the banks decided to void the transaction, so that that person managed to get themselves out of a very difficult financial situation. I think that my views on internet gambling can be best summed up by the Reverend Tim Costello who said words to the effect that with the help of internet home gambling you will soon be able to lose your home without ever actually leaving it, and that is my position. I respect the views of the majority of the committee; I just happen to disagree with them. I believe that the level of problem gambling in the community is already too high.

If you have a system of liberalising online gambling in our community, it will lead to increased levels of gambling addiction. I commend the federal government for enacting the Interactive Gambling Act 2001, and for heeding a number of the amendments from the crossbenches with respect to credit card transactions and the sorts of transactions that would be illegal. Obviously, I wanted it to be broader but the former telecommunications minister, the Hon. Richard Alston, is to be commended for pushing that legislation through.

I believe that were that legislation not passed we would have seen an opening up of online gambling and an increase in gambling addiction. I was very disappointed with federal Labor's approach to this issue several years ago. I just hope that it will reconsider its position. Since that time I have been disappointed that the federal government seemed to drag its feet in relation to the review of section 68 of the act. However, notwithstanding that, I understand that the release of that report is imminent. Primarily it is a federal issue. The states do have a role. I am sure that this issue will be revisited.

I know that this committee has been meeting for a significant period of time, but the delays in providing a final report, I believe, are not the fault of the committee: it is because it is part of a national debate and, to a significant degree, it involves commonwealth powers. I believe that the work of the committee has been constructive, notwithstanding that we have come to different views. I believe that the body of work that has been done and the research and the information that has been provided via this report will be useful for any future debates on this issue.

It has been a good process, and I wish to make it clear that I believe that all members of the committee have played a very constructive role in relation to this debate. I would also like to acknowledge and thank the long-suffering secretary of this committee, Noelene Ryan, for her work, and George Kosmas, the most recent research officer.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise briefly to note the final report of the committee with some pleasure, that is, that it is the final report. This committee, as the Hon. Nick Xenophon has indicated, has been meeting for many years and, as I said, I am pleased to see the end of the committee's deliberations. Obviously, whilst the issues will continue to be debated in this chamber (and, I am sure, in the community generally), I want to identify myself as one of the majority view, together with the Leader of the Government, in relation to the committee's initial and final recommendations on the issue.

Even when in government I was a supporter of the notion of some national model of regulation. I think that if that model had been adopted by all parties, even with differing views in relation to this issue, we would be in a better position now than we currently are. The difficulty now to unscramble the egg in relation to a national regulatory model is partly why, of course, this committee is now indicating that it will wind up its deliberations. If it is to be achieved it will have to be achieved by bodies other than a Legislative Council select committee from South Australia in terms of trying to mould what might be an appropriate regulatory model that would be signed off by all jurisdictions in Australia.

Frankly, the only way that this will occur is if there is national leadership and leadership from the various states and territory jurisdictions, and I am doubtful whether, in the

foreseeable future, we will see that. I am, I guess, not hopeful that we will see a national regulatory model, as desirable as I believe that would be. I will not revisit the issues under debate. We can do that on another occasion. I, too, join with the other members in thanking the hard-working staff members, Noelene and George, for the work they have undertaken on behalf of the committee. I hope that this now frees them up for other challenges in terms of their work-related program for the future.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I take this opportunity to thank George Kosmas, the research officer, and Noeleen Ryan, the secretary, for the splendid work they have done over many years.

Motion carried.

GREEN PHONE

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I lay on the table a copy of a ministerial statement relating to Green Phone Incorporated made earlier today in another place by my colleague the Attorney-General.

SELECT COMMITTEE ON MOUNT GAMBIER DISTRICT HEALTH SERVICE

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

That the interim report of the select committee be noted.

Given the fact that this is an interim report and we are on the second-to-last day of sitting, I will make just a brief reference to the tabling of the evidence which is a vital part of the interim report. The committee has found it necessary to table as much evidence as it has taken and, because it will not make any deliberative observations because of the fact that it has to take more evidence, I will keep my remarks very short. It would be premature for me to make any observations given that some of the witnesses that we need to take evidence from have key evidence to provide.

The committee itself has been serviced well by its desk clerk and research officer, who has now left us—Barbara has gone to greener pastures. Chris Schwarz is still with us. After taking the rest of the evidence and providing the final report, I will be able to give a much more detailed report to the council, and I look forward to that final report. There has been some criticism of the time frame within which we have been operating but, given the number of select committees that are running at the moment and the availability not only of members but also witnesses, it has gone a little longer than we first thought. However, we are getting there. Once we started to take evidence it was pretty clear that many of the issues could not be skipped over and we could not cut the time frames for making our final deliberative report.

Many of the issues that were raised in the Hon. Angus Redford's motion certainly are being dealt with at this point in time. The district health service is being restructured and changes are being made as this report is being put in place. So, we will have not only a progress report on what the committee found are the inbuilt structural problems and how the service got to the present position (and most of those will be detailed in industrial relations issues associated with bargaining programs), but also many of the structural issues that the report was put in place to investigate are certainly being dealt with at the moment.

I thank all those people in the south-eastern area, particularly in the Mount Gambier and Districts Health Service, who are working very hard to change the nature and culture of the health services on the basis of which the report was drafted. So, I look forward to the final report being tabled in this council, and the final evidence will be taken as soon as it is humanly possible to collect it and report on it.

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

RIDGEWAY, SENATOR ADEN

The Hon. KATE REYNOLDS: I move:

That this council congratulates Australian Democrats Senator Aden Ridgeway for being recognised as the NAIDOC person of the year for 2004.

NAIDOC week (which stands for National Aboriginal and Islander Day Observance Committee) was held this year from 4 to 11 July and is an annual Australia-wide event. Members might be interested to know that the first NAIDOC day was held in 1957 as a way of celebrating and promoting a greater understanding of Aboriginal and Torres Strait Islander peoples and culture. This year's national theme was 'Self-determination, our community, our future, our responsibility', which is made all the more relevant given that ATSIC, the peak indigenous organisation, is to have its operations considerably diminished as a result of the government's intention to abolish ATSIC and the associated agency ATSIS.

The achievements of 11 outstanding indigenous Australians were recognised at the announcement of the national NAIDOC awards during a gala event attended by more than 1 000 guests at the Burswood International Resort Casino in Perth. These awards honour silent achievers by recognising individual accomplishments and the contributions that these award recipients have made to the advancement of indigenous people and indigenous communities. We think that they are an inspiration to all indigenous people and, indeed, all Australians.

This year's NAIDOC Person of the Year award recipient, Democrats Senator Aden Ridgeway, was born in Macksville in northern New South Wales and is from the Gumbayngirr people of that area. Aden spent 14 years in the New South Wales Public Service, working his way from park ranger through to policy positions and then onto management positions. During this time he served on the Sydney ATSIC Regional Council for its first two terms. For five years he was Executive Director of the New South Wales Aboriginal Land Council and was responsible for its head office, its regional offices and 118 local Aboriginal land councils throughout the state. He was a member of both indigenous native title negotiating teams, following the Mabo and Wik decisions, and he was a member of the Council for Aboriginal Reconciliation for its last two years.

Aden joined the Australian Democrats in 1990 and was elected as a Democrats Senator for New South Wales in 1998. He entered the Senate as Australia's only indigenous federal politician in July 1999 and is only the second indigenous person to take a seat in the Australian parliament. Aden is the Chairman of Bangara Aboriginal Dance Company, a board member of the Tikkun Australia Foundation and the Lumbu Indigenous Community Foundation, and a trustee of the Charlie Perkins Children's Trust.

Ten other indigenous Australians were also recognised at

the NAIDOC ball. Sports Person of the Year Adam Goodes from the Sydney Swans won the Brownlow Medal in 2003 (along with Nathan Buckley and Mark Ricciuto) and is one of the hardest ruckmen to match up in the AFL. The Youth of the Year was Michael Hayden, a 21 year old man from Merredin, Western Australia, who has already won the Western Australia government's Young Person of the Year award and the Youth Leadership Award in 2004. The Art Award was won by Jirra Lulla Harvey, a 21 year old Yorta Yorta and Wiradjuri woman who won the Art Award for her painting on this year's NAIDOC theme. The Apprentice of the Year was Neil Fourmile Junior from Jarrabah in tropical North Queensland. He is the first qualified boilermaker from the Yarrabah Aboriginal community, and he is certainly a role model for other apprentices and school students who gain valuable work experience in his workplace.

Elders of the Year were named as Merlene Mead from Wagin, Western Australia, and Stephen Mam who was born at St Pauls village on Moa Island in Torres Strait. The Scholar of the Year was Kaye Price, originally from Tasmania, who lives and studies in Canberra. At the age of 62 she is currently a PhD candidate with the Australian National University and holds a Master of Education Degree from the University of South Australia. The Charles Perkins award was won by Sealin Garlett who is a Noongar man from the south-west of Western Australia, Sandra Armstrong from the Northern Territory and Bill Mallard from Barrell Well community in Western Australia. All these people have been involved and committed to indigenous affairs for many years.

On the day that he was presented with the award, Senator Ridgeway said:

> Our culture has had its award winners before me and will have many more after me. We are not all going to get awards like this one. There just aren't enough to go around, but it is the combination of these big events and the small and unnoticed things that we all do every day that keep our culture and people alive. All these things represent our struggles and our joys. All these moments define our lives. This award is a pure feeling of coming home for me. It is an award for my grandmother and my mother and all my family because I am the sum total of them. These are desperate political times. Indigenous Australians are being squeezed into a monocultural one-size-fits-all straitjacket by a federal government which displays no vision and no imagination. Events like NAIDOC Week however give us indigenous people space to be together, to dream together and to make a better future together. I invite all Australians to join us in celebrating our culture and our survival.

Senator Ridgeway and his family richly deserve the recognition provided by this award, and I urge all members to join me in congratulating Senator Ridgeway on being named 2004 NAIDOC Person of the Year.

The Hon. G.E. GAGO: The government supports the Hon. Kate Reynolds' motion congratulating Senator Aden Ridgeway being awarded the prestigious honour of NAIDOC Person of the Year for 2004. My colleague the Hon. Kate Reynolds has outlined quite a bit of detail about the background of Senator Aden Ridgeway, so I will not repeat that. However, I think it is worthwhile repeating the fact that Senator Ridgeway is only the second indigenous person to be elected to the federal parliament. He has fought for indigenous Australians to be treated with dignity and respect, and for their rights and culture to be recognised in law. This government commends and recognises Senator Ridgeway for the strong leadership and advocacy role he has provided for the indigenous community.

NAIDOC (National Aboriginal Islander Day Observance Committee) Week was held between 4 and 11 July this year. This occasion is held on an annual basis to recognise and celebrate indigenous people and their unique culture. NAIDOC Week also aims to promote a greater understanding of and education about indigenous culture in mainstream Australian society. It is envisaged that events such as NAIDOC Week can act to educate the broader community about the need to assist and support Aboriginal and Torres Strait peoples to achieve access to the same sorts of opportunities enjoyed by most Australians.

My colleague the Hon. Terry Roberts was actively involved in NAIDOC Week celebrations here in South Australia this year, opening the 'My land, my spirit' art exhibition at Mount Gambier and participating in the official NAIDOC flag-raising ceremonies at Adelaide Town Hall and the City of Port Adelaide Enfield. This government has recognised the outstanding contribution which indigenous Australians have made and which they continue to make to Australian society through its Doing It Right Aboriginal affairs policy framework that was launched by the Premier a year ago. Senator Aden Ridgeway deserves this prestigious award and should be congratulated for this achievement.

The Hon. SANDRA KANCK: I also support this motion. Senator Aden Ridgeway is a friend of mine, and I am proud to be his friend. I had the privilege, on the opening night of the Festival of the Arts this year, of being in his company and it was a remarkable experience. I could not believe the number of people who came up and almost stood in our way, more or less demanding that I introduce them to Aden. I was just amazed at the magnetic attraction that he had for people, and vice versa. Everyone wanted to talk to him; everyone wanted to introduce themselves or be introduced to him. He is profoundly respected in both the Aboriginal and white communities.

Although he has been a member of the Democrats for about 15 years, I think, I was not aware of his existence until some of the work on native title—in particular, the Wik legislation. I remember seeing him on television almost night after night, it seemed, fronting press conferences after coming out of negotiations with the government on the Wik legislation. Each time I saw him I would look at him and think, 'What a remarkable man. He speaks so sensibly. He really understands what this is about. He is a great representative of his people.' I believe that the award he has been given as NAIDOC person of the year is well deserved and represents the way in which he has been able, as an Aboriginal person, to understand the issues in a white world and work in both worlds to create harmony between the two.

The Hon. IAN GILFILLAN: It is a pleasure to have the opportunity to add my comments to this motion. I share the admiration for the man—his style, his personality, his courage and his efficiency—that has been openly expressed by my colleagues and the Hon. Gail Gago. It needs no further testimony from me except to say that, for those people in our community who, unfortunately, still doubt the potential for achievement of the indigenous population, Aden Ridgeway should blow that attitude out of the Australian psyche forever.

The Hon. R.D. LAWSON: I rise to indicate support for the motion moved by the Hon. Kate Reynolds. This year's NAIDOC award to Aden Ridgeway is an entirely appropriate recognition of Senator Ridgeway's contribution to national affairs. The NAIDOC awards are important awards. I believe

that Senator Ridgeway has admirably upheld the fine tradition of indigenous contribution to the federal parliament—a tradition established by Senator Neville Bonner, a senator from Queensland who represented the Liberal Party with great distinction as the first indigenous member of the Australian parliament. Senator Ridgeway has been a significant contributor to indigenous affairs. He has had a positive influence and I think, as Prime Minister John Howard has recognised, Senator Ridgeway has been sensible, committed and effective in representing indigenous interests. Of course, we on this side do not always agree with Senator Ridgeway's comments, but there is no gainsaying his significant contribution. We support the motion.

The Hon. KATE REYNOLDS: I thank all honourable members for their most positive contributions on this debate. To echo the words of my colleague the Hon. Sandra Kanck, Senator Aden Ridgeway is a great representative of his people and, in the words of my colleague the Hon. Ian Gilfillan (and I think I am paraphrasing those words), Senator Aden Ridgeway is a formidable force to be reckoned with. I look forward to watching and, where I can, assisting his contributions in the future with respect to indigenous people. I would also like to place on the record that he is a formidable force in a range of other portfolio areas.

Motion carried.

EMERGENCY MANAGEMENT BILL

Adjourned debate on second reading.

(Continued from 30 June. Page 1898.)

The Hon. IAN GILFILLAN: This bill was received by this place on 30 June, and it is the government's desire to have it passed by the parliament before the end of this session. We are happy to accommodate the government in this regard and will support the passage of the bill right through all stages. The bill arises out of a review commissioned by the government into the South Australian state disaster legislation. This review was commissioned by the government into the South Australian state disaster legislation. It explored a number of issues, including those spelt out in the minister's second reading explanation, as follows:

- the role of government agencies in all aspects of emergency management and protective security;
- the governance arrangements for emergency management;
- recommendations to ensure that South Australia is best positioned to manage a full range of potential emergencies.

This review identified a number of inadequacies. I quote from the information pack provided by the minister's office, as follows:

- lack of coverage of critical infrastructure;
- an emphasis on the 'top end' disasters only;
- insufficient governance arrangements;
- a lack of focus towards modern issues such as terrorism and protective security;
- a need to increase the involvement by local government and the owners and operators of key infrastructure services such as electricity, gas and oil; and
- a lack of accountability on government chief executives for emergency management and protective security planning.

As I stated, I take these points from an information pack circulated by the minister. I think it would have been appropriate to also circulate to honourable members a copy of the review report. My office has received advice from the minister's office that the report was prepared for cabinet and cannot be released. I pause and draw a deep breath of amazement at that, at a time when we are being urged Australia-wide (almost worldwide) to focus on the potential consequences and prevention of emergencies at the top end—the high order priority.

There has been a review, as I mentioned before, commissioned by the government, and I put it to this chamber that the issues that were spelt out are critically of interest to all members of the chamber and all the public of South Australia. Why should it have been kept in a cute sort of way as just privileged to the cabinet? Not only can I not understand it, but I deplore it. I urge the government to urgently reconsider this and, if it is not able to release the whole of the report, because there may be some matters that it feels are particularly sensitive, release what can and should be released with an explanatory note to the public of South Australia, rather than treating us with disdain and saying that we cannot see it. It is like kids with something precious that they do not want the others to share, and I feel that it is a very petty and small-minded approach. However, it still has not caused us to not support the legislation.

The legislation will expand on the scope of the State Disaster Act from dealing with solely natural disasters to a system that includes all hazards. It will adopt an increased degree of planning in relation to potential emergencies and/or disasters making this one of the key roles of the revamped State Disaster Committee. The bill replaces this committee with a State Emergency Management Committee. This is an expanded committee and includes the chief executive of the Department of the Premier and Cabinet, the state coordinator, the Under Treasurer, the president of the Local Government Association, chief executives of various government departments, the chief officers of each of the Country Fire Service regions, the Metropolitan Fire Service and the State Emergency Service, and a senior executive representative from the South Australia Police and the South Australian Ambulance Service. The chief executive will chair this new committee. The committee will be responsible for the development of a State Emergency Management Plan and for providing advice to ministers and the Emergency Management Council.

The legislation will also create provisions for the declaration of an 'identified major incident'. This will become the lowest level of incident that can be covered by this legislation. This level is currently not covered by the State Disaster Act, which focuses on only major emergencies and formally declared disasters. It is important to note that the bill retains the State Emergency Relief Fund. I recognise that there has been extensive consultation on this legislation, including all relevant government departments and the existing State Disaster Committee. I urge the government to make that report that it commissioned available so that we can all assess it and digest its contents. I ask the government to comment when it concludes the second reading stage on the interface between this legislation and federal legislation. I believe the practical question arises whereby, if there is a significant disaster which applies to more than one state, and it is regarded by the federal parliament as deserving of the application of its legislation, there is no accommodation of that possibility in this legislation. I would be interested to hear the government's explanation of that.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

PASTORAL LAND MANAGEMENT AND CONSERVATION (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 20 July. Page 2056.)

Clause 1.

The Hon. R.D. LAWSON: I indicate that the opposition appreciates the comprehensive response that was delivered by the minister. I foreshadowed yesterday that I might, as a result of that response, have further comments to make but, having examined the transcript, I simply again express my appreciation for the additional information which has been placed on the public record.

Clause passed.

Clauses 2 to 9 passed.

Clause 10.

The Hon. CAROLINE SCHAEFER: I move:

Page 5, line 37 to page 6, line 2—

Delete subclause (5) and substitute:

(5) The board cannot take any action under this act as a consequence of an assessment until after the end of the period during which an application for assistance may be lodged under section 25B.

Page 6, after line 2—

Insert:

25A—Establishment of pool of persons for the purposes of section 25B

(1) The minister must establish a pool of persons for the purposes of section 25B.

(2) The pool will consist of such number of persons (being not less than two and not more than six) as the minister thinks fit, appointed by the minister after consultation with the South Australian Farmers Federation and the Conservation Council of South Australia Inc.

(3) A member of the Public Service is not eligible for appointment as a member of the pool.

(4) A member of the pool will be appointed on terms and conditions determined by the minister.

(5) Each person appointed under subsection (2) must have qualifications or experience in pastoral land management.

(6) The minister must maintain a public register containing the name and contact details of each member of the pool.

(7) The public register is to be available for inspection, without fee, during ordinary office hours—

(a) at a public office, or public offices, determined by the minister; and

(b) at a website determined by the minister.

(8) The minister may, by notice in the *Gazette*, publish guidelines in relation to the provision of assistance under section 25B.

25B—Assistance to lessee

(1) A lessee who has received under section 25(4)—

(a) a copy of an assessment; or

(b) a written report of proposed action,

may, within 60 days after the copy of the assessment or the report is forwarded to the lessee under that section, apply to the minister for assistance in relation to the lessee's dealings with the board, or any other person or body, as a consequence of the assessment or in relation to the proposed action.

(2) An application under subsection (1)—

(a) may request that the assistance be provided by a particular member of the pool of persons established under section 25A; and

(b) must identify—

(i) the nature of the assistance sought by the lessee; and

(ii) if the lessee seeks assistance to dispute any part of the assessment, or oppose any proposed action—the grounds for the dispute or opposition; and

(c) must be made in a manner and form determined by the minister and will not be conditional on the payment of any fee.

(3) If an application is made under subsection (1), the minister must, unless satisfied that application is frivolous or vexatious, appoint a member of the pool to provide assistance to the lessee in accordance with any guidelines published in accordance with section 25A(8) (and if the application requests that the assistance be provided by a particular member of the pool, the minister must appoint that member unless the minister is of the opinion that it would be inappropriate for any reason for that member to do so).

(4) A member of the pool must—

(a) inform the minister in writing of any direct or indirect interest that the person has or acquires that conflicts, or may conflict, with the provision of any assistance that the member is appointed to provide; and

(b) comply with any directions given by the minister regarding the resolution of the conflict, or potential conflict.

Maximum penalty: $20 000.

(5) Subsection (4) does not apply in relation to an interest that the member has or acquires while the member remains unaware that he or she has an interest in the matter, but in any proceedings against the member the burden will lie on the member to prove that he or she was not, at the material time, aware of his or her interest.

(6) No civil liability attaches to a member of the pool for an act or omission in good faith in the exercise or purported exercise of a function under this section.

(7) The Pastoral Board must give consideration to any comments made to the board by the lessee relating to the assessment, or the written report of proposed action, referred to in subsection (1).

I spoke to this yesterday when I made my second reading contribution. The opportunity has been taken while the Pastoral Land Management and Conservation Act is open to move two amendments, which, by any means, do not move the whole way towards peer assessment but move some way towards allowing perhaps a degree of greater self-management for the pastoral industry. The second amendment allows for a pool of six people to be selected by the minister after consultation with the South Australian Farmers Federation and the Conservation Council, and that pool of six people would be used in a mediatory role when there was conflict between the assessor of the pastoral lease and the pastoralist in a number of instances but, in particular, with regard to stocking rates.

The lessee must make a request to the minister within 60 days, and the pastoralist may ask for one of the six, and the minister must respond to that unless he considers the request to be frivolous or that the person on the pool and the pastoralist have a conflict of interest. A member of the pool must inform the minister if there is a conflict of interest and the minister, although not bound by the advice of a member of the pool, must take that into account in the instance of any advice and any mediatory role. It is hoped that people with knowledge and experience of pastoral lands management will be able to mediate between the minister when there is conflict, in order to avoid some of the unpleasant instances that we have had in the past where it has been deemed that assessors do not have that intimate knowledge of pastoral management and pastoral areas that may be required.

I stress again that no public servant may be on that pool of six, but certainly a retired public servant with that knowledge could certainly be considered along with retired pastoralists. Again, although this does not move as far as the Hon. Graham Gunn wished, we hope that it is a step towards a more cordial method of settling disputes in the pastoral industry.

The Hon. P. HOLLOWAY: I indicate that the government will support the amendments moved by the opposition on this matter. As the shadow minister has pointed out, the Pastoral Land Management and Conservation (Miscellaneous) Amendment Bill was introduced largely to deal with matters of indigenous land use, and that is why I am handling this bill (representing the Attorney-General), but the opportunity was taken to look at other matters in relation to the operation of the Pastoral Land Management and Conservation Act. These matters really refer to matters under the jurisdiction of the Minister for Environment and Conservation, but I believe he has been involved in negotiations with the opposition in relation to these matters and is happy to support them as an improvement to the bill. I indicate my support on behalf of the government.

Amendments carried; clause as amended passed.

Clauses 11 to 14 passed.

Clause 15.

The Hon. P. HOLLOWAY: I move:

Page 10, line 30—
After 'native title group' insert:
in relation to pastoral land the subject of the ILUA

This amendment arose from a matter raised by the Deputy Leader of the Opposition in his contribution, and so the government was happy to address the matter and introduce this amendment to clarify the situation. We are happy to move this amendment and the subsequent amendment.

The Hon. R.D. LAWSON: I indicate gratitude to the government for adopting the suggestion made by the opposition and indicate that we will be supporting the government's amendment.

Amendment carried; clause as amended passed.

Clause 16.

The Hon. P. HOLLOWAY: I move:

Page 12, line 18—
After 'native title group' insert:
in relation to pastoral land the subject of the ILUA

The reason behind this is exactly the same as the amendment that I just moved.

The Hon. R.D. LAWSON: For the same reasons, I indicate the Opposition's support.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendments: committee's report adopted.

Bill read a third time and passed.

SCALES, Mr P.

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

That the Legislative Council expresses its gratitude to the Deputy Chair of the Parole Board, Philip Scales, A.M., for his eight years of dedicated service to the Parole Board and the community of South Australia, and condemns the Premier for his comments in the House of Assembly on 19 July 2004 that 'I do not care which member of the Parole Board resigns .' and that the Parole Board 'wants more money—not just for their pay (that has been done)—to speed up the release of prisoners'.

The necessity for this motion arises because of the manner in which the government has treated a number of sensible comments made by Mr Scales who, as the motion states, has been a member of the Parole Board for eight years and who has been deputy chair of that board. The dismissive and contemptuous attitude of the government, as expressed by the Premier, ought be condemned. My colleague the Hon. Angus Redford, who is Opposition spokesperson on correctional services, raised the matter in this council earlier this week. In a letter to the Minister for Correctional Services, Mr Scales indicated that he did not wish to be reappointed when his current term as deputy presiding member of the Parole Board expires in December this year.

It is worth putting on record Mr Scales' letter to the minister. It is dated 2 July, and begins with the introduction I have just mentioned and goes on to state:

In giving notice at this stage, it should give sufficient time for the planned expansion of the members of the board to occur and in particular for two deputies to be appointed as proposed.

I interpose that Mr Scales is referring to the bill currently before this council which contains some amendments to the Correctional Services Act in relation to the Parole Board and which, in particular, will allow the number of appointees to the board to be expanded and for two deputies to be appointed. Mr Scales went on to state:

May I take this opportunity to express a number of views.

1. I believe the board and the secretariat have done an extraordinary job under difficult circumstances. The work of the board has increased dramatically since I was first appointed and the load will be alleviated by the appointment of three additional members, but the secretariat is in great need of additional staff and facilities.

That is a measured, sensible and entirely justifiable statement. Mr Scales continued:

2. So far as the government's 'tough on crime' policy is concerned, it is generally presented in the context of harsher sentences and expanding prisons, although such expansion has now been put on hold with the result that prisoner's accommodation is in disarray. While this may satisfy some, there must be far more emphasis placed on appropriate treatment for prisoners and rehabilitation, otherwise they will come out worse than when they came in, and the community will suffer the consequences.

Once again, it is an entirely justifiable proposition from Mr Scales. Indeed, this government has acknowledged the need for expanding prisoner accommodation. It has clearly been acknowledged in relation to the Adelaide Women's Prison and the Adelaide Remand Centre, and it is undoubtedly true that Yatala Labour Prison is in urgent need of upgrading. The government acknowledges the need for better accommodation, yet the government fails to deliver. As has been expressed in a number of contributions on the Appropriation Bill, promised expenditure on better correctional facilities has been deferred.

Mr Scales is quite correct to describe prisoners' accommodation in these circumstances as being, to use his words, 'in disarray'. Mr Scales continues:

3. Some new money has been allocated to corrections, but it does not appear to be filtering through to the areas where it is needed. For example, while it is good to see that a sex offender treatment program is being introduced into prisons, which will bring us into line with other states, psychologists who are to be employed have been taken from community corrections and accordingly are no longer available to service parolees. There are few psychologists available in the community, despite the board's observation that a great number are required. In addition, many core programs are still not available to prisons and in the community. This is unacceptable from the board's point of view. The board must set appropriate conditions for their release on parole but knows that many of them will not be observed.

Mr Scales is there referring to what is described in the correctional services department's annual report as a crisis in community corrections and in relation to rehabilitation programs. I commend the government for funding a sex offender program available to persons in the prisons, in addition to the existing sex offender programs which were established under a previous government but which are not

available to prisoners. That was an initiative. Mind you, it was one that was reluctantly given by this government and, when the announcement was made in a rather disparaging way, the Premier, as it were, threw the program in the face of the courts, saying, 'It's up to you to make sure that these programs are delivered', notwithstanding, I might say, the scepticism that was expressed about their effectiveness by the Attorney-General. Mr Scales further states:

4. It is apparent that there are insufficient numbers of parole officers. A dramatic increase is required if they are to be able to perform their work at an acceptable level. One of the most important features of parole should be a consistent engagement on a one to one basis in order that trust may be established. The parolee needs to be supported, with care and interest shown and proactive steps taken to move them towards a more productive life. This cannot occur satisfactorily under the present arrangements. Many parolees do not spend enough time with parole officers, are often transferred from one officer to another, sometimes on several occasions, and are not engaged in appropriate treatment programs. This is not a criticism of parole officers, as those we come into contact with have a great desire to be able to perform the work they are trained for at an appropriate level, but are simply unable to do so. The consequence is that these parolees do not feel valued or encouraged or supported, which in the vast majority of cases has been a feature of their lives in the past. Until that is rectified, we are going to see an increase in recidivism while on parole and after parole has expired. As a result the public not only suffers by being offended against but also pays for more people going to prison. As we know, it costs up to $80 000 per annum to keep someone in prison.

Again, a very valid point. There will be those in the government who choose to portray these observations of Mr Scales as indicating that he is soft on offenders. However, a correct interpretation of his remarks is that Mr Scales is keen to ensure that the community is protected by ensuring that those who are released on parole, under conditions which require their supervision, will obtain that supervision. It is good for the community and it is also good for the parolee, but if one is interested only in community safety and does not have particular regard to the interests of offenders one would say that the community is being let down by the absence of sufficient parole officers. Mr Scales further states:

5. In May 2000 I attended an international parole conference in Canada and prepared a report for the government in which I referred to the fact that the Canadian government had injected substantial resources into rehabilitation. The result is that approximately 90 per cent of parolees successfully completed parole without reoffending. Their previous recidivism rate was similar to ours.

Now, what does Mr Scales get for suggestions of this kind? Dismissive comments by the Premier that he does not care who resigns and an accusation that Mr Scales and the board is generally soft on parole. Mr Scales further states:

6. A recent international research report dealing with the effectiveness of punishment so far as it relates to reoffending, referred to an analysis made of 111 studies involving 422 000 offenders. The findings showed that harsher sanctions had no deterrent effect on reoffending and that longer sentences resulted in higher reoffending rates. Sentences of more than two years had an average increase in reoffending of 7 per cent.

I have not seen this research report but, certainly, it deserves serious consideration and not off-hand dismissal by the government. Mr Scales further states:

7. Not only the Canadians but other countries and states of Australia have devised strategies to tackle the prison population growth and reoffending rates. For example, Victoria announced a four-year strategy and provided $104.8 million new funding for rehabilitation and diversion programs. The Western Australian government has expanded community corrections positions in the adult justice system by 56 over a three-year period with a large number of psychologists being employed. We are dealing with people who present with a great variety of problems including behavioural, mental, intellectual, substance abuse, relationship, homelessness, lack of education and skills, and lack of self-esteem. Unless these are dealt with, they will continue to offend.

Once again, they are comments worthy of consideration and an argument worthy of being addressed, but they are simply dismissed by this Premier in his public statements. Finally, Mr Scales' eighth point was:

The other matter which I would like to raise is the perception in the minds of the community that the board is soft on criminals, which is fostered by the perception that it does not have the support of government. My experience is that we are not soft on those who breach parole or in dealing with those who are applying for parole or in the setting of conditions for their release. The government statements in the media do not sit well with a considered approach to the problem of crime and the manner in which the board performs its work. I am not referring here to Executive Council's decisions to override recommendations of the board in relation to the release of persons convicted of murder who have served their non-parole period. It is a much broader problem than that. However, I will take the opportunity to say that arbitrary detention should never be part of our justice system but it does exist in circumstances where Executive Council refuses to adopt the recommendations of the board without giving proper reasons for its decisions. I recognise that the council has certain powers as a consequence of O'Shea's case of 1987, but I believe the situation should be the same as that which exists pursuant to the European Convention on Human Rights. The case of Stafford v United Kingdom reported in 2002 is pertinent, which effectively preserves the principle of the separation of powers.

That is an opinion that Mr Scales, from his experience and in his wisdom, is certainly entitled to express, and one would have expected a considered response from the government. I am not convinced that I share Mr Scales' opinion on this matter in its entirety. I do believe that different situations apply in the United Kingdom and the European community from those which apply here. This is an opinion respectfully put by a man to the government, yet he gets abuse and dismissal by the Premier. The Premier said in parliament on 19 July when speaking of the board:

They—

I take it that is those opposite—

do not like the fact that we went to the people and said we would be tough on law and order, and we are. The Parole Board wants more money—not just their pay (as has been done)—to speed up the release of prisoners.

What an insulting response from an elected government! He dismisses the Parole Board as if it is simply interested in its own pockets. The remuneration that members of the Parole Board receives is minimal by the standards of today. The members of this board are not well paid, and for someone like Mr Scales (who is a legal practitioner in private practice and who has spent many hours of every year for the last eight years committed and dedicated to his work on the board) to be insulted in this way is a disgrace. If Mr Scales was interested in his own pocket, he would never have gone near the Parole Board (he would have refused to serve) because, undoubtedly, it has cost him income; and similarly for the chair of the Parole Board and member for the last 20 years, Frances Nelson QC.

For the Premier to say that this board is only interested in their own pockets I think is disgraceful. Then he suggested that the Parole Board wants more money not just for that purpose, namely, lining their own pockets (what preposterous nonsense!), but also to speed up the release of the prisoners. The imputation of that remark is that this Parole Board is just there to ease the release of prisoners into the community, which is once again a deliberate misconstruction of the role of the board and of the statute which this parliament has passed and under which the board operates. The board is required, conscientiously, to lay down conditions which are

designed to protect the public. The Premier has not identified any particular instance in which the board has failed to discharge that statutory responsibility. The Premier's actions, in dismissing the contribution of Mr Scales and the board generally in the way in which he did in parliament, were deplorable.

We have seen further evidence of that just this day with the Premier on ABC Radio today dismissing the observations of Frances Nelson QC about the failure of the government to fund appropriate mental health services in the correctional system. For the Premier to dismiss the chairman's comments as huff and puff simply indicates that he is not serious about providing protection to the South Australian community. He is more interested in cheap political point scoring and grandstanding.

Mr Scales deserves far better than he has received. He concludes his remarks by saying:

I hope this letter will be viewed as containing some constructive comments. Should you wish to discuss any aspect with me, please feel free to do so.

I hope that this minister has the courtesy and courage to invite Mr Scales to have a discussion in which these sensible suggestions and constructive comments can be explored. If the minister fails to do so, it will simply indicate that this government is not interested in entertaining any constructive comments or suggestions.

There are two elements to this motion. One is expressing gratitude to Mr Scales for his service, which is important. It is clear that the government will not express any gratitude, but, rather, make dismissive comments about this board; and, presumably, any other board that has a different view. Secondly, this motion condemns the Premier for his outrageous and offensive comments. I look forward to the contribution of members to this motion. I acknowledge the work that my colleague the Hon. Angus Redford is doing as correctional services spokesperson for the opposition. I look forward to his contribution on the matter, as well.

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

SELECT COMMITTEE ON THE OFFICES OF THE DIRECTOR OF PUBLIC PROSECUTIONS AND THE CORONER

The Hon. IAN GILFILLAN: I move:

That the committee have leave to sit during the recess and report on the first day of next session.

Motion carried.

CHILDREN IN DETENTION

Adjourned debate on motion of Hon. Kate Reynolds:

That this council condemns the federal government for failing to ensure that Australia's detention laws comply with obligations under the Convention on the Rights of the Child, and specifically that the federal government failed to ensure that—

1. Detention of children is a measure of last resort, for the shortest appropriate period of time and subject to effective, independent review;
2. The best interests of the child are a primary consideration in all actions concerning children;
3. Children are treated with humanity and respect for their inherent dignity;
4. Children seeking asylum receive appropriate assistance to enjoy, to the maximum extent possible, their right to development and their right to live in an environment which fosters the health, self-respect and dignity of children, in order to ensure recovery from past torture and trauma;

and that this council calls on the federal government to immediately implement the recommendations of the Human Rights and Equal Opportunity Commission's report, 'A Last Resort'.

(Continued from 30 June. Page 1901.)

The Hon. G.E. GAGO: On behalf of the government, I support the motion. This government has been committed to securing the release of children from immigration detention. In accordance with recommendation 159 of the Layton report, in January 2003 the Premier wrote to the Prime Minister urging the immediate release of children in immigration detention centres on the grounds that such detention is demonstrably harmful to the children concerned. As at July 2004 I was informed (by DIMIA) that seven children remained at Baxter Detention Centre, 13 were in the Port Augusta residential housing project facility with their mothers, and 17 children and young adults were in foster care in alternative community detention arrangements in Adelaide.

The reduction in the number of children in immigration detention centres can be attributed, in part, to the efforts of the state government in pushing for the release of children in detention, in conjunction with community agencies, such as Justice for Refugees SA; and also the public attention given to individual family cases through the pursuit of determinations with the Family Court of Australia. Nevertheless, the federal government has been dragged kicking and screaming to a point where it has been forced to reduce the number of children in detention centres. In the meantime, it has created considerable harm—and a lot of that is very long-term damage, as well.

The government has negotiated with the commonwealth for all children in detention centres to attend local schools. Through Children, Youth and Family Services (CYFS), this government has made recommendations to DIMIA about individual children, and the impact of detention on their health and wellbeing and on family functioning. CYFS follows a process of reviewing and assessing these children and providing up-to-date information and advice regarding their protective needs. This is in accordance with recommendation 162 of the Layton report. Further, this government has negotiated with the commonwealth for all children in detention centres to attend local schools.

The Human Rights and Equal Opportunity Commission's Inquiry into Children in Immigration Detention and the subsequent report 'A last resort' outline the experiences of children in detention and the detrimental impact the experience has on the mental health of the children concerned. This report, tabled in the commonwealth parliament on 13 May 2004, found that Australia's immigration detention policy failed to protect the health and wellbeing of children in detention. It found that the resulting damage has a long-lasting effect as children grow into adulthood, particularly as most children concerned spent several months—even years—in immigration detention.

The Rann government has negotiated with the commonwealth to allow as much intervention by state authorities in matters concerning children in detention as the law permits. This was achieved through the advice provided by Solicitor-General Chris Kourakis QC on the extent of the applicability of the state's Children's Protection Act 1993 to children and their families who are in detention, having regard to the provisions of the commonwealth Migration Act 1958 and other relevant laws (as per recommendation 160 of the

Layton report). Further, this government is considering the option of renegotiating a memorandum of understanding with the commonwealth to ensure the state's responsibility for the protection of all children, including those in immigration detention, should the provisions of the Children's Protection Act 1993 not apply as a matter of law to children in immigration detention.

I would like to draw the attention of members to the federal Labor Party's policy on children in detention. The Labor Party is opposed to the long-term detention of children in high security facilities. Since 2002 federal Labor has made an absolute commitment to release all children from detention. This position has recently been reiterated by the federal shadow minister for immigration, Stephen Smith. Labor's proposal would see accompanied children released with their mother and father, unlike Howard's policy, which separates children from their fathers and wives from their husbands and breaks up families who have already experienced immeasurable pain and suffering.

Federal Labor supports accompanied children living with both parents in residential style housing with discreet supervision and security. Under Labor's plan, unaccompanied children would be cared for through foster or community arrangements. Labor firmly believes that the current Liberal government's policy that gives the Minister for Immigration guardianship authority over unaccompanied children is not in the children's best interests. Labor believes that the authority that locks up children (in this case, the Minister for Immigration) should not be responsible for their welfare and protection (it is a bit of an oxymoron, really, is it not?) and for exercising discretionary powers over their release. Labor is committed to establishing a federal children's commissioner who would be vested with guardianship authority over unaccompanied children in immigration detention.

The federal government's rationale for locking up children in detention centres is fundamentally flawed. Minister Vanstone suggested that, if children were released from detention, no deterrent would exist to stop people smugglers from bringing boatloads of families illegally to this country. But the policy of mandatory detention has not acted as a deterrent to people smugglers. Since the introduction of mandatory detention in 1992, boatloads of asylum seekers have continued to arrive. Vanstone's argument lacks proper consideration of the push factors in countries such as Afghanistan and Iraq that produce thousands of refugees. To strengthen the protection of Australia's borders we need to forge stronger relationships with law enforcement agencies in the region and international organisations rather than locking up children in immigration detention facilities.

Australia's immigration and border protection policies should not supersede, and dictate to, our international obligations to protect the safety and welfare of children. In the words of the Human Rights and Equal Opportunity Commission Report into Children in Detention, the Howard government has 'failed to protect the mental health of children', 'failed to provide adequate health care and education' and 'failed to protect unaccompanied children and those with disabilities'. This report demonstrates the national disgrace that is the Liberal Party's immigration policy. Howard and Vanstone have undermined and harmed the welfare and safety of many children locked up in the name of law enforcement and tougher border protection. The government, therefore, supports this motion, which condemns the federal Liberal government for its shameful failure to ensure that Australia's detention laws comply with obligations under the Convention on the Rights of the Child.

The Hon. R.I. LUCAS (Leader of the Opposition): The Liberal Party opposes the motion moved by the member, and will respond to some of the comments made by the honourable member and also by the Hon. Ms Gago in her contribution. I remind the Hon. Ms Gago that this system of mandatory detention was introduced in May 1992 by a federal Labor government—endorsed by, introduced by and implemented by a federal Labor government. If the Hon. Gail Gago wants to play politics in relation to this, then let her have the courage to stand up in this chamber and say that Bob Hawke and Paul Keating were shameful and that Bob Hawke and Paul Keating were a disgrace.

Members interjecting:

The PRESIDENT: Order! Interjections are out of order when a member is debating a matter in an orderly manner.

The Hon. R.I. LUCAS: Thank you, Mr President. The Hon. Ms Gago will happily stand up in this chamber and attack her political opponents, but she does not have the courage to criticise and describe as a disgrace former prime minister Keating, former prime minister Hawke and the former federal Labor government which introduced a system of mandatory detention in 1992 and which continued to support and implement it until it believed that it was in its political interests to change its position on this issue. The Hon. Gail Gago can squeal as much as she likes on the back bench over there. She can whine and squeal; she can do whatever she likes in relation to the issue. We will not be diverted into playing politics on this important issue, as the Hon. Gail Gago seeks to do by her out of order interjections.

The federal minister's office has been kind enough to provide information to my office in relation to this issue, and I want to place on the record the federal government's position and rejection of many of the criticisms that have been made of it. I think it is fair to say at the outset that some of the evolutionary changes that the new Minister for Immigration, Senator Vanstone from South Australia, has introduced to this policy have generally (I am not saying overwhelmingly) been warmly received. The broader Australian community has strongly endorsed, and continues to strongly endorse, the federal government's policy in this area. Of course, this issue, together with other issues, will soon be tested by the coming federal election, and the people of South Australia and Australia will have the opportunity to consider whether or not they want to make a change in government. I will be the first to say that the election will be determined on many issues—and probably more significant issues will be critical ones such as the economy and related matters. One of the many issues that people will have an opportunity to consider and to express their views about the government's handling of this matter.

At least the federal government's position on this issue has been pretty clear, even though there are sections of the community who now, having initiated the policy, seek to move away from their original support for the policy, as the Hon. Gail Gago has just indicated. I note that the Hon. Gail Gago, in her former position, was unprepared to publicly criticise the federal Labor government when it was implementing this policy. We did not hear a squeak or a peep from the Hon. Gail Gago in the period through the mid-1990s. She held a relatively prominent position at various stages through the 1990s when the Labor Party was in power federally—one of the union heavies within the broader Labor movement.

On a number of occasions, the Hon. Gail Gago had the opportunity to put her views on this issue and others to lower house electors in lower house seats in South Australia to demonstrate in her words her own magnificent campaigning skills and, of course, she was roundly defeated in both of those seats. She has the capacity to turn marginal seats into safe seats for the opposition. It is the only capacity that the Hon. Ms Gago has in terms of campaigning. The only way she—

The Hon. J. Gazzola interjecting:

The Hon. R.I. LUCAS: We are getting a bit sensitive now, are we? You had to hide her in the Legislative Council because you could not lose the whole vote of the state. Just to be safe, they had to put a number one just in case she lost the whole vote. I will not be diverted by those issues. On 10 June 2004, the new caring Minister for Immigration, Senator Amanda Vanstone, issued a press statement with the heading 'Government Committed to Detention Regime'. Senator Vanstone stated:

> The Minister for Immigration, Amanda Vanstone, reaffirmed the government's commitment to mandatory detention as part of its strategy to control unauthorised immigration into Australia. To release all children from detention in Australia would be to send a message to people smugglers that, if they carry children on dangerous boats, parents and children will be released into the community very quickly. . . One of the key reasons the number of illegal boat arrivals to Australia have virtually ceased is because of the detention regime. At present there are only 12 children in mainland detention centres in Australia who have arrived with parents illegally by boat.

I repeat that: at present there are only 12 children in mainland detention centres in Australia who have arrived with parents illegally by boat. It continues:

> Of these children, 11 could be in alternative detention arrangements but their parents have refused.

The Minister for Immigration has made it quite clear that the statement made by the Hon. Gail Gago is just untrue. The Hon. Gail Gago stood up in this council in a bald-faced way and said that there continued to be boat loads of immigrants arriving on our shores in Australia as proof that the federal policies were not working. That is just untrue. The Hon. Gail Gago knows that her statements in relation to that issue were untrue and yet she chose to stand up in this chamber and make deliberately untrue and false statements on this particular issue. I challenge the Hon. Gail Gago to produce one bit of evidence in relation to the claim that she made that there continued to be boat loads of illegal immigrants arriving to indicate that the mandatory detention policy was not working, which was the essential premise that the honourable member was putting.

I am also indebted to the federal minister's office for providing me with a copy of a joint media release with the Attorney-General, the Hon. Philip Ruddock, which was issued some time in May. I do not have a precise date. I want to read sections of it on to the public record, because this is the federal government's response to the Human Rights and Equal Opportunity Commission's report on this particular issue that the mover of the motion and the Hon. Gail Gago in part have addressed. To be fair to those avid readers of *Hansard*, the federal government's rejection of some of the comments in the commission's report and also members' views of that can at least be placed on the record so that people can make their own judgments. This is a verbatim quote from a joint media release with the Attorney-General, the Hon. Philip Ruddock, which states:

> The Human Rights and Equal Opportunity Commission's report following its inquiry into children in immigration detention over the period 1 January 1999 to 31 December 2002 was tabled in parliament today. The government rejects the major findings and recommendations contained in this report. The government also rejects the commission's view that Australia's system of immigration detention is inconsistent with our obligations under the United Nations Convention on the Rights of the Child (CROC). The government takes very seriously its international obligations towards children in immigration detention and its responsibility for the care of all asylum seekers and protection of their human rights. The government considers the current Australian policies take all measures necessary to ensure that the rights of children are protected. In May 1992, mandatory detention was introduced for certain boat people.

I interpose here. The senator is much more genteel than I am. She did not point out that in May 1992 it was a federal Labor government that introduced mandatory detention. The statement continues:

> On 1 September 1994, with the commencement of the Migration Reform Act 1992, mandatory detention was subsequently broadened to encompass all unlawful non-citizens including unauthorised arrivals.

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

The Hon. R.I. LUCAS: Prior to the dinner break, in between interjections from the Hon. Ms Gago and others, I was reading onto the public record a joint media release by the Minister for Immigration and the Attorney-General issued sometime in May this year. I will continue to place on the record the federal government's response to the Human Rights and Equal Opportunity Commission's report, as follows:

> On 1 September, with the commencement of the Migration Reform Act 1992, mandatory detention was subsequently broadened to encompass all lawful non-citizens, including unauthorised arrivals.

I interpose by reminding honourable members that in 1994, of course, it was a federal Labor government that was taking those actions to extend the operation of mandatory detention in Australia. I return to the press release:

> Australia's obligation under the CROC, including the 'best interests of the child' principle and the principle of detention 'as a measure of last resort', were taken into consideration when Australia's immigration detention regime was established.
>
> The convention recognises the detention of children can occur 'in conformity with the law', as occurs in Australia in accordance with the Migration Act 1958. Australia has the right under international law to determine who it admits to its territory and under what conditions.
>
> Immigration detention achieves a number of public policy objectives, including monitoring the integrity of Australia's migration program. Immigration detention also ensures that people who arrive in Australia without proper authority are available for health, character, security and identity checking. If their claims to remain are unsuccessful, it ensures people are available for removal.
>
> Consistent with the Convention, children who have entered Australia unlawfully, as well as adults, have the right to seek judicial review of the detention. The government is committed to ensuring that applicants seeking judicial review of protection visa decisions have their claims processed quickly and efficiently.
>
> Last week the government announced a major package of reforms to migration litigation.
>
> This package included a substantial injection of resources into the Federal Magistrate's Court to enable the appointment of eight additional magistrates to handle migration cases more quickly. These important reforms will benefit all judiciary review applicants in migration matters including, of course, children.
>
> The HREOC report is very disappointing. In proposing that there should be a presumption against the immigration detention of children, and that the family unit should be preserved, the report recommends a model that would in practice encourage the inclusion of children in people smuggling operations. The government will not be encouraging such activity.

. . . The report is unbalanced and backward looking. There is a concerning tendency for the report to build its case on largely untested statements and anecdotes drawn from groups or individuals with an ideological opposition to detention.

Neither the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) nor the detention services provider was accorded complete procedural fairness. For example, the public hearing for the department was conducted in an adversarial manner and with a narrow focus which showed little appreciation of the complexity of the issues involved. The report itself acknowledges that most of the evidence from children, and some from parents and former detention staff, was provided on a confidential basis with the result that the substance of many of the allegations could not be disclosed to DIMIA in sufficient detail to allow it to properly respond to that evidence.

The report tends to claim systemic problems on the basis of a small number of cases. Information provided by DIMIA has been inadequately and selectively summarised and then routinely dismissed. The report has given weight selectively to interpretations of events, rather than grappling with the complexity of the issues. The report's findings and recommendations fail to appropriately acknowledge the significant practical improvements that have been made to the arrangements for children in immigration detention. The Human Rights and Equal Opportunity Commission has also failed to recognise the significance of measures taken by DIMIA to further enhance the safety, welfare and wellbeing of children in immigration detention.

Over the years there have been varying numbers of children in immigration detention. Back in 1994, at the time that mandatory immigration detention was introduced, there were 342 illegal boat arrival children in immigration detention.

Again, I interpose to say that, in 1994, these 342 children in immigration detention were detained under a federal Labor government. The press release continues:

As at 5 May 2004, there were only 12 unauthorised boat arrival children in mainland detention centres. Of those, seven could have moved into alternative detention arrangements, had the parents agreed to do so.

I note that that statement of seven is different to a latter press release of July to which I referred earlier in which the minister indicates that 11 of the 12 had alternative detention options had the parents agreed to do so. The press release continues:

The remaining five children were not eligible because of risks to health or security. As at 5 May 2004, there were 28 children in alternative detention arrangements in the community, including foster care and residential housing projects. Of these, five are unaccompanied youths in home-based foster care arrangements with a state government. All unaccompanied minors are released from detention facilities on the mainland unless they pose a significant flight risk or there are concerns for their safety and welfare. There was only one unaccompanied minor in a mainland detention centre, a 17-year old who has been detained as a result of compliance action, pending removal from Australia.

The government has now established residential housing projects in Port Augusta and Woomera in South Australia and at Port Headland in Western Australia, providing more home-like living conditions for mothers and children. In the budget, the commonwealth announced that further residential housing projects would be developed in Sydney and Perth. DIMIA is also continuing to talk to community organisations about expanding their role in providing community-based detention arrangements. Virtually all children attend school in the community, and all have unrestricted access to comprehensive health care, including access to specialist treatment where necessary.

These, and other measures such as ongoing consultations with child protection authorities, and a program of activities and excursions, are designed to properly care for the physical and mental health of children in detention. If these children or their parents have any concerns about their treatment, or the conditions they are in, they are able to raise such concerns through a range of internal and external complaints mechanisms. These examples serve to illustrate that the government has diligently worked toward responding to a real and unpredictable challenge. The government's strong but fair border protection policies have had an impact.

The number of unauthorised arrivals has dramatically reduced from 4 137 in 2000-01 to 82 in this financial year. This means that the people smuggling trade has also reduced and children have not had to undertake a hazardous journey which may have jeopardised their lives. The government has developed a system that ensures that the number of children in immigration detention is very limited and that those who are detained are well cared for, without detracting from the level of border integrity that ensures the safety and protection all Australians.

That is the end of the joint press release. I repeat that very stark figure which, as I said, proves conclusively that the claims made by the Hon. Gail Gago are just untrue, that is, that the two ministers have indicated that just four years ago there were 4 137 unauthorised arrivals into Australia. The tough but fair border protection policy regime of the federal government means that in this financial year that 4 137 number has been reduced to just 82. My challenge to the Hon. Gail Gago is that, if she does want to make untrue statements to the Legislative Council, she produce evidence to justify and back the claims that she has placed on the public record.

I would hope that, as a member of parliament, the honourable member would be concerned about the integrity and honesty of the statements that she makes, and that she would be prepared, if she can acknowledge that she is wrong, to stand up in this chamber and apologise to members for having made untrue statements, and to apologise—

The Hon. G.E. Gago: In your dreams!

The Hon. R.I. LUCAS: It is a sad reflection on the honourable member that she feels that she is unprepared to acknowledge that she has made an untrue statement when the evidence is clear. The honourable member should stand up in this chamber and have the courage to apologise to her colleagues for having made an untrue statement. Certainly, from our viewpoint, the opposition acknowledges that this is a controversial issue, and that people with genuine belief can have genuinely different views on this issue of mandatory detention.

We have seen the debate in the community and in the parliament and, on behalf of Liberal members, I would be the first to acknowledge that many in the parliament do hold genuine and firm views that do differ from the views expressed by the federal government. Certainly, on behalf of the opposition, I will respect those members who hold those views and who are prepared to use fact and truth to argue their case. But I will not respect members such as the Hon. Gail Gago, who will stand up in this chamber and make untrue statements and not have the courage to provide evidence backing those statements or to apologise when she clearly has been shown to have made an untrue statement.

The Hon. G.E. Gago interjecting:

The Hon. J.S.L. Dawkins: Chuck her out!

The PRESIDENT: It is just an interjection taking place, however provocative it may be.

The Hon. R.I. LUCAS: The last comment I place on the record on behalf of the federal government, to put the other side of this argument, is information provided by a commonwealth web site of the immigration department under the heading of 'Accompanied and unaccompanied minors'. I will read the information that has been provided on that web site on behalf of the federal government's position. It states:

Most unauthorised arrival children arrive with a parent. While the child's interests are assessed on the basis of the particular circumstances of the individual case, the interests of minors have been recognised by agencies (such as UNHCR) as being best served by remaining with parent or other family members. Where concerns exist regarding the protection and welfare of a child, state child welfare agencies play a key role in the child's ongoing care and

management. If a state child welfare agency recommends separation from parents, this advice will be accepted, where possible. In addition to the duty of care which the minister and DIMIA have towards all children in immigration detention, the Immigration Guardianship of Children Act 1946 provides that the minister is the guardian of certain non-citizen children who enter Australia without the care of a parent or relatives. Formal guidelines for unaccompanied minors have been issued which should ensure that, except in exceptional circumstances, all unaccompanied minors in detention for whom the minister is guardian are quickly moved to an alternative place of detention or, if eligible, granted a bridging visa.

So, as I said, the minister's office has provided me with considerable information to place on the record, and I will leave it at that and indicate that there are two sides to this debate. I place on the record the federal government's response to the broad nature of the concerns that have been expressed by the honourable member in relation to this particular important issue and indicate, therefore, on those grounds that the Liberal Party cannot support the motion as it has been drafted.

The PRESIDENT: I draw honourable members' attention to the fact that there has been a logistical error committed today, and I suppose I take some responsibility for it. On the last occasion that the Hon. Ms Reynolds spoke she sought leave to conclude her remarks. Assiduously following the *Notice Paper* today, there was a bit of a problem, so the Hon. Ms Reynolds, having sought and received leave to conclude her remarks, will have a little bit more latitude as she sums up than I would normally apply in these circumstances.

The Hon. KATE REYNOLDS: Thank you, Mr President. To take people back to the motion itself, when I spoke some weeks ago I said that the Australian Democrats condemn the policy of detaining children in prison-like facilities. We have voiced our concerns in this parliament and in the federal parliament loudly, repeatedly and with some success, and I think that some of the pressure that we have applied has incrementally led to some change during the last few years. I note that the Hon. Rob Lucas earlier in his remarks said that the government's policy was well-received—with which statement, of course, we would vehemently disagree—but in his later remarks he acknowledged that this was a controversial policy. I am not sure how it can be both well-received and controversial, but I will return to that. The HREOC report made wide-ranging findings about the treatment of children in detention centres and, in fact, set a deadline for the government to release all children from immigration detention, highlighting the gravity of the situation and the trauma being inflicted on these children and young people. As we know, the federal government chose, and continues to choose, to ignore that deadline, although it has been keen to make a big show of releasing children via the back door of detention centres by granting bridging visas and temporary protection visas, which simply put people on a knife-edge existence.

Recent government efforts to reduce the number of children in detention centres and mooted permanency for temporary protection visa holders, whilst welcome, could cease once the election is over. These recent releases from detention have been a result of decisions by the Minister for Immigration rather than normal processes of the immigration department, suggesting that this is not, in fact, a new, more humane policy but rather a pre-federal election attempt to avoid the refugee issue. I am not sure how that fits with the policy's being well-received or controversial.

So, even after this report from the Human Rights and Equal Opportunity Commissioner was tabled, the government is, in our view, still committing institutionalised child abuse. On 5 July we understand that there were at least three children still in the Baxter Detention Centre, 13 children in the Port Augusta residential housing project (which members will know I refer to as 'mini Baxter'), 11 children on Christmas Island and about 19 children on Nauru. Yet, on this very same day, the immigration minister said there was only one child in detention. Then she went on to blame the mother of that child for refusing a place in the housing project because that mother wanted to remain with her husband and both parents wanted the child to be with its father. What many people have failed to realise is that families are being placed under enormous strain if the women and younger children are forced to live in the residential housing projects rather than deal with what I would call the hideous circumstances of the detention centre.

One family that I have visited twice has three young sons. This family has reached the depths of despair following separation from their father and husband. This was a decision that the family made to try to reduce the suffering that those children were experiencing inside the Baxter facility, so they felt forced to go to the residential housing project in Port Augusta. Without using the family's name, I will quote from an assessment done by CAMHS on 17 June, which was just one month ago. The assessment states:

> The parents report a continuing sense of depression and hopelessness. They report being worn down by the enduring detainment and feel the children are going a bit more down all the time. The sense of responsibility for the children's poor well-being continues to weigh heavily with the parents and is exacerbated when the children's well-being declines. The family is showing longer term negative effects of their separated status—

that is, housing project and detention—

> The mother reports the increased demands of single parenting are exhausting her and that the boys are increasingly challenging her authority. She finds fighting between the boys particularly difficult to manage. She has also talked about being very scared and fearful at times without her husband—

and this has been the subject of a previous report, too—

> The father continues to express suicidal thoughts related to the difficulty of the family's plight and his sense of responsibility for this. He also reports despair regarding his inability to play a normal parenting role with the children. Some examples include: 'I can't teach the boys because I'm not there with them.' This further loss of his fathering role adds to his generally depressed state. The children continue to experience a range of emotional and behavioural problems, some of which have exacerbated.

The report goes on to give details about each of the children, and concludes with the remarks:

> The family appears to have increased levels of emotional and psychological difficulties. There are some areas where deterioration is greater than others but generally the family's resourcefulness continues to wain. Their sense of hopefulness is extremely low, so specific things like setting and attempting to reach goals and even belief in themselves as agents in their lives is declining or absent. The individuals are variable in their coping as outlined above. In such circumstances it is very difficult to provide therapeutic impetus other than the benefit of being an understanding witness to this family's plight.

I hope the Hon. Rob Lucas accepts that as some of the fact that he is looking for in respect of what this regime is doing to families. This evidence that I have just read reinforces the fact that it is inhumane to force mothers to choose between their husbands, and in some cases their older sons, and getting their children out of the unhealthy environment of the detention centre.

This means that, unless the government changes its policy, children and young people are released only after they have developed a psychological condition which is a direct consequence of detention. The national refugee advocacy group, A Just Australia, has repeatedly called on the government, as have the Democrats, to immediately release the children and their families into the community. The organisation is urging the government to change the policy and to provide permanent protection for proven refugees, with assistance to return home on a voluntary basis.

A Just Australia is demanding that the government introduce a process for humanitarian visas or solutions, for some sort of decent solution for those stuck in the limbo of long-term detention. As it says, to do otherwise is to choose continuing suffering and conflict. There might be some electoral advantage in maintaining that conflict or fear of being seen to back down if the policies are changed, but we believe that in making the right choice the issue will quickly slip off the political agenda. A Just Australia has made its view very clear.

In relation to the HREOC report, its national director, Mr Howard Glenn, said that the first goal now must be to get these children and young people out of a regime of institutionalised child abuse as quickly as possible. He said A Just Australia believed that the federal and state governments and their respective welfare agencies had the capacity, if they worked cooperatively, to create an alternative environment for these children and for their families who have been exposed to such ongoing trauma.

Here in South Australia, Justice for Refugees, which has a cooperative relationship with A Just Australia, has also been campaigning. It says that much has been done to hide the abuses of the system, but increasingly more and more stories are coming out—and there are more yet to come. Justice for Refugees South Australia has placed great emphasis on the fact that state governments, the federal court, the High Court, the Family Court, churches, medical authorities, child abuse experts, the United Nations and thousands of individuals have condemned the effects of this policy.

The organisation takes a hard-line view: it says that if the long-term detention of children is the effect of a policy, then that policy is wrong. It is the starkest failure, and that failure grows, with some families being kept in detention for over four years now. The family that I mentioned earlier is, I think, one of those; certainly they would be coming up to four years.

Those organisations are joined in their campaign by ChilOut, which is a group otherwise known as Children Out of Detention, which keeps up-to-date statistics of children in immigration detention and alerts the public to the fact that some children in Villawood, Nauru and Baxter have spent their entire lives behind wires, fences and 24-hour security of the type that we would otherwise find only in a maximum security prison. Many of the children who were being kept on Nauru had been detained for at least 30 months—that is, well over two years.

ChilOut has repeatedly called for the immediate release of all children from immigration detention because they say, and we agree, that 'Locking up babies and children, any children, is obscene.' The community's outrage about the government's treatment of asylum seeker children is not confined to refugee advocates. *The Age* newspaper on 1 May 2004 published an editorial entitled 'Don't return children to detention', which sums up my own feelings. It stated:

> Whatever the legalities of this case, children have no place in prison. It is unlikely that the 7-year-old child of a family facing a return to detention and possible deportation understands why she must be punished because her parents dared to seek asylum in this country. It is certain her baby brother, who lives with their mother under constant supervision in a motel unit—at ridiculous and unnecessary public cost—does not.

The same editorial, which members will by now realise focuses on the plight of the Bakhtiyari children, also quoted the Prime Minister's welcoming a recent High Court decision. The Prime Minister said:

> [This] clearly validates the whole detention system that is operating in this country.

Like me, the writer of the editorial took exception to the Prime Minister's position and said:

> It does no such thing. The High Court has found that the children were legally detained under the Migration Act, which does not distinguish between adults and children, and that the Family Court's powers do not extend to any or all children. The underlying issue of whether children should have been in a detention centre in the first place is unchanged. As this newspaper argued they should not have been.

The editorial continues:

> There is no circumstance in a civilised country that would justify the imprisonment of children behind razor wire, as has been the case with these children. Children held in detention centres in Australia have witnessed riots, suicide attempts and other desperate acts of adult inmates. The psychological effects of this kind of trauma have been documented in various reports of human rights agencies. Since their release the children of the family in question have been attending a normal school and are reportedly adjusting reasonably well to their situation. For them to be returned to detention, or to have to face the fear of being deported to a country they can barely remember, could be devastating to their long-term psychological health. . . Whether or not the children's parents dishonestly stated their reasons for seeking asylum, punishment should not be visited upon the children. There is, indeed, no reason for the government to continue its hardline on mandatory detention, given that it has apparently won the fight to deter unregulated asylum seekers. The boats have stopped coming. It should now realise that for many Australians the treatment of children in this way is an enduring stain on the nation's conscience.

I will repeat that phrase: an enduring stain on the nation's conscience. The editorial concludes:

> Whatever the legalities of the case, there is room for compassion.

The ABC television program *Lateline* on 12 May 2003 reported on a study compiled by 12 authors, including psychiatrists with the backing of the Royal Australian and New Zealand College of Psychiatry, the New South Wales University and the New South Wales Institute of Psychiatry. In this report all the children claim to have seen people self harm and make suicide attempts. Some 95 per cent had seen a physical assault. Nearly 40 per cent claim to have been assaulted by camp officers. One quarter claim to have been kept in solitary confinement and around 10 per cent allege sexual harassment. So, if the Hon. Rob Lucas is still looking for evidence, fact and truth, I will go on to provide more.

This program stated that the first systematic study of mental health inside detention found a tenfold increase in psychiatric illness among children. Regular suicide attempts, violence between guards and detainees, verbal abuse, room searches and solitary confinement are just some of the traumas experienced by children—and this continues now. The study also records the shameful world first for Australia: the highest level of mental illness among children ever recorded in modern medical literature. The program reported that, locked away in detention camps for more than two years, children as young as three have seen riots and bashings. They see adults—sometimes their own parents—slash their wrists, hang themselves, jump off buildings and break bones. They

used to be woken at night for head counts, and still are often called by numbers instead of names. At times they are separated from their parents for lengthy periods—and all of this while they are in the care of the Australian government.

Dr Zachary Steel from the School of Psychiatry at the University of New South Wales was interviewed for the program and stated:

> . . . all the children that we assessed had witnessed one incident where one of the detainees ran out into the main compound with a razor, and slashed himself repeatedly all over his body. One of the children was even splashed with blood. And they are living in nothing short of a nightmare.

Dr Steel went onto say that it was hard to conceptualise how you could experience this in a detention centre as anything other than systematic child abuse. The program detailed the study which is backed by some of Australia's most eminent psychiatrists and which assessed 10 families with 20 children aged from three to 19. One of the most distressing findings is that the children were mostly healthy before they were locked up; but after two years in Australian detention centres they were all suffering at least one psychiatric illness, and more than half of them had multiple disorders, most commonly major depression and post-traumatic stress disorder. That is 10 times above the norm for mental illness—the highest ever recorded (as I said earlier) in modern medical literature.

For those members who are thinking that perhaps those times have passed, I can say that the rate of depression and psychiatric illness in children and young people in our detention centre in this state is no better than it was previously. The program reported that there had long been concerns in the Australian medical community about the effects of detention on children. In an unprecedented move last year, the entire profession, from psychiatrists to specialists to GPs, called on the federal government to stop locking up children and their parents. Even then there were detailed first-hand reports of babies failing to develop—and I have met some of those babies; and I have seen some of the problems they have—and adolescents trying to commit suicide. In one horrific case a six-year-old child had become near catatonic. I have met mothers who have become near catatonic—mothers of children who need their mother to be functioning to be able to care for them. Sadly, these mothers are not.

The program interviewed Dr Michael Dudley, the Chairman of Suicide Prevention Australia, who a year earlier on the same program had said, '. . . a lot of kids are severely distressed and they're weeping, they're mute, they can't eat, they can't socialise, they can't play.' The journalist said back then that the government questioned whether the doctors' anecdotes proved there was systematic mental illness. Phillip Ruddock, who was immigration minister at the time, told *Lateline* on 1 May 2002, 'Yes, I understand that, and that means unwinding mandatory detention, and we're not about to do that.' But Dr Steel, a year later, said, 'The answer is obvious—these centres are no place for children. And the evidence we have gathered today demonstrates that that is irrefutable.'

The program stated that the report had to be done in secret following the government's refusal to cooperate in a comprehensive survey. Of course, that begs the question: what did they have to hide? So, the authors relied on telephone interviews. While the authors say that they cannot guarantee that some of the claims are not exaggerated, they emphasise that the information was largely corroborated in scores of separate interviews. Immigration minister Phillip Ruddock acknowledged last December that the system needed to change and announced plans to find alternative accommodation for mothers and children. This report makes clear that every day those children are locked up could damage their well-being, especially if detention is prolonged.

Members of the religious community have also acknowledged the inhumane treatment of children in detention. In May this year, the National Council of Churches in Australia issued a media release backing calls for the release of abused detainee children. Their media release coincided with the release of the HREOC report, which the council deemed to be a damning finding on the federal government and its responsibility for cases of cruel, inhumane and degrading treatment of detained asylum seeker children. The National Council of Churches in Australia backed the commission's one-month deadline for the release of all children and their families. The council said that, based on evidence from the immigration department's own court subpoenaed documents, the commission's report of the inquiry into children in immigration detention details gross government failures to protect children during violent protests when the riot squad, tear gas, water cannons and severe lock-down procedures were deployed.

It exposes disturbing cases of repeat child suicide and self-mutilation attempts and of children witnessing their parents jumping from rooftops onto razor wire and slashing and hanging themselves. The council believes that responsibility for severe child detainee mental health breakdown should be placed squarely at the feet of the federal government, which failed to heed the consistent advice of medical and psychiatric professionals to use its powers to either release or protect children.

Following the commission's finding, churches have backed the commission's call to abolish mandatory detention laws and were counting down to the 10 June deadline for the release of all children and their family members. The council said that Australia was committed to acting in the best interests of every child, yet every day that passes—and now it is every day past that deadline—is another day in which parents are unable to shield their children from the violence around them and the heated protests and suicide attempts and, increasingly, from the despair of those people who are detained and from the dehumanising effect of being treated as an illegal person.

Members said that with every day the will and resilience of parents to protect and raise their children is broken down. They cannot tell their child when they will be released or deny that they will be deported. At the end of each day we must ask ourselves whether the pain and suffering inflicted upon mothers, fathers, small children, teenagers and young adults is a just trade-off in attempting to deter people from our shores. The council went on to say that there is no point in keeping innocent kids in detention to ward off refugee boats when Australia has a naval blockade. There is no reason to think that they will abscond as 95 per cent of the asylum seekers are found to be refugees and will be given a visa despite the trauma that they have suffered.

If parents exposed their child to violent protests, adults attempting suicide by hanging and slashing or failed to provide adequate education or a safe place to live, we would remove those children and we would consider prosecuting the parents. That is the rule that applies outside of detention. It is shocking to think that we have had to have a three-year inquiry to tell us what is obvious inside detention. Now we know that locking up kids under the mantra of border

protection is wrong. Their media release stated that these are refugee children who have often experienced horrific torture and subsequent trauma. Many have been made to witness the rape, horrific torture and killing of their parents, brothers or sisters. They are extremely vulnerable and to detain them is simply cruel. At present, all unauthorised asylum seekers are subject to indefinite, non-reviewable mandatory detention. No distinction is made between adults and children.

The council has long criticised this law for breaching Article 37 of the Convention of the Rights of the Child, which states that the detention of a child should be used only as a measure of last resort and for the shortest period of time. The report's findings confirm that Australia's automatic detention system is neither a measure of last resort nor for the shortest possible period of time and thus breaches one of the most widely signed international conventions. Every child has spent an average of one year and five months in detention, with the longest period now being over five years. The government has the power to release children on bridging visas but refuses to release parents. This catch keeps children in detention and, whilst some argue that it is in the best interests of the child not to be separated from their parents or placed into foster care, most of us would argue that that simply is not a good enough argument and that children and their families must be released immediately. Responding to the report of the HREOC commissioner, the National Council of Churches called on the government to:

- immediately release all children and their families from migration detention in Australia and Nauru;
- establish and fund appropriate care and support services for children once out of detention; and
- undertake wholesale legislative reform of the Migration Act to remove the requirement of automatic detention of children who arrive in Australia without the correct documents.

The council stated that in one expert study of 20 asylum seeker children in detention submitted to the inquiry by the South Australian Child and Adolescent Mental Health Service, it was found that:

- every single child had seen an adult self-harm, often their own parents;
- every single child had a parent with a major psychiatric illness;

Of the children under five years of age, it found that 50 per cent showed delayed language and social development; 30 per cent had marked disturbances in behaviour and interaction with their parents; and 30 per cent were diagnosed with severe parent-child relationship problems and, in particular, separation anxiety and oppositional behaviour. Again, I hope that the Hon. Rob Lucas is finding enough evidence in some of the detail that I am providing now.

In stark contrast to the community concerns, the Department of Immigration and Multicultural and Indigenous Affairs web site states that women and children are detained only as a last resort in immigration detention centres. That is not true. It also says that the government is committed to meeting the special needs of women and children in immigration detention and developing innovative alternative detention strategies for women and children. Under the heading 'Humane treatment in immigration detention' it states that emphasis is placed on the sensitive treatment of the detention population, which may include torture and trauma sufferers, family groups, the elderly, persons with a fear of authority and persons who are seeking to engage Australia's protection obligations under the refugee convention.

It also states that detention services are provided in accordance with the Immigration Detention Standards (IDS) developed by the department in consultation with the Commonwealth Ombudsman's office and the Human Rights and Equal Opportunity Commission. These standards relate to the quality of care and quality of life expected in immigration detention facilities in Australia and ensure that the individual care needs of the detainees continue to be met. It also specifies the standard of facilities, services and programs, including the requirement to provide safe and secure detention. This includes the requirement that 'respect for and the dignity of immigration detainees is to be observed and maintained in culturally linguistic gender and (I emphasise this point) age appropriate ways.

In relation to programs in detention centres, DIMIA says that a number of these programs are run within the centres, which contribute to detainee development and quality of life in accordance with the IDS, including English language instruction, cultural classes and sporting activities. It goes on to talk about children in detention centres having access to educational facilities, health and welfare services and psychological services. It states that all eligible school age children have access to external schooling.

The DIMIA web site claims that the special health care needs of each new detainee are identified by qualified medical personnel as soon as possible. Medical care is available 24 hours a day, seven days a week. It says that the department has developed a number of innovative approaches to provide appropriate alternatives to long-term residents for those detainees with specialised needs. It then goes on to talk about the residential housing projects, foster care arrangements and community care placements with special needs. It talks glowingly about the residential housing project, which the department believes provides a more domestic environment which enables more autonomy, and says that, in addition to the usual recreational and social activities, residents are also able to go shopping and participate in community events. In relation to other detention arrangements the department says that, where accommodation in a residential housing project is not appropriate, it utilises a range of detention options, including foster care and alternative detention under the supervision of a community organisation.

I wish that I had a couple of hours to talk about this and to decode the information on this web site, because I know from personal experience with both adult and child detainees that many of these claims are simply not true, and I would like to decode them and put them on the record. But members will be pleased to know that I will not do that tonight.

Children, young people and adults wait months—or, in some cases, years—for access to medical care and, again, from first-hand knowledge I know that not just sometimes, not just often, but usually the recommendations and referrals made by specialists are ignored. Yet this government still continues to lock up small children like animals. They are caged in isolated compounds where they cannot see out and can only look up at the sky, while being slowly psychologically harmed by their isolation and traumatised by the physical and emotional brutality. The residential housing project offers a little respite from some of that damage for some children, but we know that their time in detention has already caused significant and lasting damage.

Only last week the immigration department was accused of attempting to force asylum seekers from Villawood in Sydney to move to the Port Augusta residential housing

project. It said that Villawood is not designed for long-term detainees and that the conditions are not suitable for families. But the government's bullyboy tactics—which reportedly included veiled threats such as telling the asylum seekers that if they agreed to go they could go back and pack their own belongings but if they refused the guards would pack their gear—has prompted the Refugee Action Coalition to launch legal action to stop the relocations. Again, from first-hand experience, I know how fearful the detainees are of having anyone rifle through their belongings, because so much goes missing when the staff in the immigration detention centres have access to the personal possessions of the detainees. This kind of torment is still being inflicted by the government and is yet another example of the continuing abuse of children and families, despite the recommendations of the HREOC report.

I turn to some of the comments made by other members. I will start with a positive one. I was really heartened to hear the comments of the Hon. Gail Gago about the treatment of children in immigration detention being disgraceful and shameful. I took heart from her further comments (made as interjections, I think) that the Labor government has seen the error of its ways, and I look forward to more support from the government side with respect to these issues in the future.

The Hon. Rob Lucas, as I said, made some comments earlier. On the one hand, he said that it was a well received policy, but then he acknowledged that it was controversial. I do not want to debate the policy as such. I want to debate the treatment of children under the policies which might on the surface sound quite reasonable to many members of the public and many members of parliament but which we know in reality are very destructive with respect to children's physical, psychological and emotional health.

There is no question of that; the evidence is absolutely plain. Despite the fact that this is literally over 900 pages—no lightweight report—the government is still saying that it rejects the recommendations. The Hon. Rob Lucas debated this with an enthusiasm that somebody said amounts to a sporting fanaticism, regardless of the issue at hand. I find it incredibly difficult to understand how any member of parliament, or any other decision maker in this community, can deny the body of evidence and try to argue that the federal government is not treating these children and families with disdain.

In our view there is no question that children are being placed in detention not as a measure of last resort but as the first step. The best interest of children is not the primary consideration; children are not being treated with the humanity and respect that they deserve. Children seeking asylum do not receive appropriate assistance, as the Convention on the Rights of the Child requires, to enjoy, to the maximum extent possible, their right to development and their right to live in an environment which fosters the health, self respect and dignity of children in order to ensure recovery from past torture and trauma. It is because of this that the Australian Democrats believe the federal government must be condemned for its treatment of children in detention and must be condemned for the contempt it has shown for the findings of the Human Rights and Equal Opportunity Commissioner. So, I urge all honourable members to support me in this motion.

Motion carried.

SELECT COMMITTEE ON PITJANTJATJARA LAND RIGHTS

Adjourned debate on motion of Hon. T.G. Roberts:

That a copy of the tabled evidence of the Select Committee on Pitjantjatjara Land Rights be provided to the Aboriginal Lands Parliamentary Standing Committee.

(Continued from 2 June. Page 1742.)

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): This is a formal motion to enable the transfer of all tabled evidence collected by the select committee to be transferred to the standing committee to accelerate the process by which the evidence can be made available for consideration by the standing committee without having to call for witnesses and to repeat taking the evidence that was taken over a long period by the previous committee. It is only a formal motion, and I would hope that it is passed very quickly to enable the standing committee to make better use of all that information collected by a whole range of witnesses, particularly in situ in the Pitjantjatjara lands and other places. There is a whole lot of valuable evidence there that needs, not more serious consideration but long consideration, in conjunction with the aims and objectives of the standing committee.

Motion carried.

FOSTER PARENTS

Adjourned debate on motion of Hon. R.D. Lawson:

1. That a select committee of the Legislative Council be appointed to investigate the care of children under the guardianship of the minister and, in particular—
   (a) whether the state government, and in particular, Family and Youth Services (FAYS) provides sufficient and appropriate support to foster parents;
   (b) identify problems being confronted by foster parents;
   (c) examine the tendering process by the Department of Human Services for new contracts to support foster carers and children, and whether these contracts will provide the required support;
   (d) examine alternative care being provided to children under guardianship;
   (e) whether the children are at risk of abuse due to the lack of resources within FAYS; and
   (f) any other related matters.
2. That the select 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 standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.
3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being reported to the council.
4. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 26 May. Page 1616.)

The Hon. KATE REYNOLDS: I indicate for the record that I have circulated an amendment to the Hon. Robert Lawson's motion. Because this has become complicated with the bill for the commission of inquiry, I am not sure that it is appropriate to proceed at this time. Members have copies of that amendment, and I think we will have to return to it after the break and see what happens. It is not possible to proceed with that at the moment. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

DEVELOPMENT (PROTECTION OF SOLAR COLLECTORS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 24 March. Page 1232.)

The Hon. R.K. SNEATH: I rise today to present this government's position with regard to the motion moved by the Hon. Sandra Kanck for an act to amend the Development Act 1993 by way of this bill, which seeks to insert provisions into the act in order to guarantee access to sunlight for people using solar energy. While the government considers that the protection of solar collectors from overshadowing by vegetation or structures is a worthy policy matter, it does not consider that an amendment to the act is an appropriate mechanism. The bill is therefore opposed, and I will explain the reasons. The Development Act deliberately does not deal with matters of policy: it deals with process matters relating to the assessment of applications and the amending of planning policy. Policy relating to the protection of solar panels can already be incorporated into the development plans under the current legislation framework. The Better Development Plans program, which is about promoting a consistent 'best practice' policy framework throughout the state, is the most appropriate mechanism for supporting this type of policy change.

The inclusion of this amendment in the act would make it an 'absolute'; that is, in all cases the protection of the collectors would take precedence over other potential issues. It would add another layer of complexity to the assessment process, potentially impacting on the timeliness and certainty of the development approval process. The government can see difficulties for the administrators of the act in trying to define the measure 'adverse affects'. Disputes would occur at the outset if the legislation contains such a subjective clause. In terms of assessing development, this amendment would not be practical.

Normally, an assessment would include an on-balance consideration of a range of planning matters; for example, privacy, open space and access to natural light are all important issues, as is the retention of street scape characters through the siting, height and design of buildings. Legislating for only one aspect of a development could negatively impact on the ability to achieve a satisfactory outcome in some of those other areas. There are also other issues, as this type of legislation could impact on the ability of subsequent developments, which are well within other policy parameters for a particular area, to gain the necessary approvals.

The proposed bill also includes amendments to the act relating to trees. I would like to point out that a restriction on growing trees overshadowing solar collectors is not a planning issue; that is, the planting and maintenance of trees is not development. I would question whether such a restriction might be better placed in another act, for example, the Local Government Act or the Electricity Act. Furthermore, many of the trees that would trigger action under this section of the act will be significant trees. In this case it would require a third party to submit an application to have a tree removed/lopped on a neighbouring property. Potentially, there could be an increase in negative neighbour relations, particularly with disputes over trees. For the reasons previously outlined, the government does not support the bill as proposed by the honourable member.

The Hon. D.W. RIDGWAY: I rise on behalf of the opposition to speak to this bill. First, I should mention to the council and to the Hon. Sandra Kanck that the Liberal opposition received the bill on 24 March this year and on 20 April it sent letters to the LGA, the Law Society, the Master Builders Association and the Property Council requesting their submissions and views on this bill but, as yet, only the Law Society has responded. In the light of that, I indicate that, for the purposes of the debate and to progress the bill somewhat tonight, the opposition will not oppose the second reading. It is interesting to note that in 2001 a subsidy was introduced to offset the cost of installing solar hot water systems, and that is still available today, which indicates that the Liberal Party is somewhat sympathetic to the protection and, potentially, the installation of solar hot water. Renewable energy sources are becoming increasingly important and, with the high cost and environmental pollution of coal-fired and gas-fired power stations, I suspect that renewable energy sources such as solar will become more attractive.

With the decreased availability of fossil fuels, it is becoming vital that alternative methods of power generation be used by householders. Certainly, the small photovoltaic cells placed on the roofs of houses would make a lot more sense in today's society than even wind power. Solar energy is renewable and emission free and has fuel costs associated with its production. Sunlight is free, although one never knows; this government is the highest taxing government in the nation and, at some future time, it may even try to tax sunlight. Beyond the cost of the system it costs nothing to run and to collect the power. The purpose of the bill is to ensure that it remains easy for people to collect sunlight and thus encourages more people to install these systems. In her introduction, the Hon. Sandra Kanck said that, at a recent meeting of the Australian New Zealand Solar Energy Society, in slightly more than a decade photovoltaic will be cost competitive with grid supplied electricity. Certainly, if that is to be the case, I am sure that many more people in Australia will be using photovoltaic cells for home generation of power.

As the Hon. Sandra Kanck highlighted with her table in her second reading explanation, Australia and, unfortunately, the world seems to be, in the minds of some, getting hotter as a result of global warning and greenhouse gas emissions; thus, if that trend is to continue our demand for electricity will certainly increase. People who choose to lessen the burden on the environment by installing solar power systems to their homes should be able to do so freely and be able to harness the maximum amount of sunlight possible.

The bill only protects existing solar collectors from developments impeding their light source, and it is not retrospective, so it will not affect those who have already completed a development. The bill restricts the proposed legislation to cover the development and trees, and removes any adverse effect that could be seen to be trifling or insignificant. I take up the comments of the Hon. Mr Sneath that perhaps the planting of trees is not something that should be dealt with in this bill but should be a planning or local government issue. Of course, it creates the issue that a tree that may have been planted prior to the installation of a solar collector but then grows to a height that interferes with the sunlight may certainly cause some problems. The Liberal opposition has some problem with some of these side issues.

As I indicated earlier, the Liberal Party is still awaiting submissions from the LGA, the Master Builders Association and the Property Council of SA but continues its support of

the bill to protect the rights of solar collectors under the English 'ancient lights' common law that entitles all people to light through defined areas of a building. With those few words, I indicate that the Liberal opposition is happy to support this bill and, in doing so, encourage more South Australians to fit solar systems to their houses.

The Hon. SANDRA KANCK: I thank members for their contributions. I was a bit disappointed in what the Hon. Mr Sneath had to say. He argued that this bill would take away certainty for developers, but I would argue that there needs to be certainty for householders. As I pointed out in my speech, it is so often the people who are environmentally conscious who make the sacrifices in order to install and continue to use solar technology.

I wrote to the Premier on 8 June about this bill and in the past couple of days something might have come through but, to my knowledge, I have not had a reply from him. I asked for government support for the legislation and I referred specifically to stated aims in the government's strategic plan which would be consistent with this legislation. One of those aims was to 'achieve the Kyoto target during the first commitment period'; a second aim was to 'lead Australia in wind and solar power generation within 10 years'; and a third aim was to 'increase energy efficiency of dwellings by 10 per cent within 10 years'.

I do not think that leaving this to local government, as the Hon. Mr Sneath has suggested, is the solution. If we are going to have certainty we need a set of rules that everyone can look at and know will apply. Leaving it to individual local government bodies means that it will be a mishmash for anyone to work through. But, as I say, I thank members for their contributions and I am sure that, if there are problems, we can work through them in the committee stage.

Bill read a second time.

DEVELOPMENT ACT REGULATIONS

Order of the Day, Private Business, No. 25: Hon. J. Gazzola to move:

That the regulations under the Development Act 1993 concerning revocation of 18A, made on 11 September 2003 and laid on the table of this council on 16 September 2003, be disallowed.

The Hon. J. GAZZOLA: I move:

That this order of the day be discharged.

Motion carried.

AUDITOR-GENERAL'S REPORT

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

That this council notes the report of the Auditor-General for the year ending 30 June 2003.

I move this motion to give members an opportunity to comment on matters directly and indirectly related to the Auditor-General's Report which, of course, canvasses a whole variety of issues. I intend making my contribution probably in the September session when I will move a similar motion. With that, I urge support for this motion.

The Hon. A.J. REDFORD: In noting the 2003 Auditor-General's Report, there are a number of matters that I wish to draw to the attention of this Parliament and to the Auditor-General in relation to previous reports and the one on which he is currently working. The Auditor-General, pursuant to section 31 of the Public Finance and Audit Act, is required to examine the efficiency and economy with which the public authority uses is its resources.

Over the past few weeks I have raised a number of matters regarding the department of corrections. The minister has not sought to answer those questions, either publicly or through a private briefing. Tonight I wish to raise more issues and provide more detail which affects the efficiency of the department of corrections and may well fall within the parameters of section 31 of the Public Finance and Audit Act.

At this stage I would reserve the right to add further to this information in the absence of some response to some of the questions and issues that I have asked of the minister and have raised on earlier occasions. The Department of Correctional Services corporate structure has at its head the minister. Reporting directly to the minister is the CEO, Mr Peter Severin. The department is made up of various offices including the Office of the CEO, Custodial Services, Community Corrections, Financial and Physical Resources, Human Resources and Strategic Services.

The Custodial Services section's key functions include the management and maintenance of the state prisons, the management and supervision of sentenced offenders and the delivery of rehabilitation and resocialisation programs to sentenced offenders. The institutions for which Custodial Services are responsible include Yatala, the Adelaide Remand Centre, Mobilong, Port Augusta, Cadell, Port Lincoln, the Adelaide Women's Prison, the Adelaide Pre-release Centre and Mount Gambier prison.

The Director of Custodial Services is a Miss Eva Les. She has been in that position since October 1999, pursuant to a five year contract. Each of the managers in these institutions report to her. On 13 February this year the Coroner reported on the death of Brian Keith Dewson. Mr Dewson died in the Port Augusta prison as a result of hanging himself in November 2000. At page 16 of his findings the Coroner referred to a report of the investigation into the cell design by a Messrs Smedley and Leggatt of the Department of Correctional Services. The Coroner described it as being 'commendably thorough and prompt'. The report included the following recommendation:

That the General Manager of Port Augusta prison removes a potential hanging point in the cells in Spinifex and Wattle units by modifying the cell shelving to remove the gap between each shelf and the cell wall.

The report was forwarded to Mr John Paget, the then Chief Executive Officer. He approved the recommendation on 21 December 2000. The report was then sent to Ms Les for action. I understand that the report was also sent to the manager of the Port Augusta prison, who submitted a funding request for the necessary work. The request would have been considered by the Works and Equipment Committee, of which Miss Les was a member.

According to the Coroner, it would appear that no action was taken to comply with the recommendations until 20 October 2003, when Miss Kate Hodder, counsel assisting the Coroner, contacted Mr Smedley to ascertain whether the recommendation had been implemented. As a result of this contact, Mr Smedley alerted Mr Peter Severin, the new CEO, who immediately directed that the work commence. On 23 May, Ms Margaret Lindsay died in the Adelaide Women's Prison as a result of hanging herself from a book shelf in the cell. Following an inquest into her death, the Coroner handed down his finding on 18 December 2003. The Coroner said:

On the evidence in that case, if the recommendation made by Messrs Smedley and Leggatt in December 2003 had been implemented more speedily, Ms Lindsay's death on 23 May 2001 might have been avoided (see my finding in that case at p26). This is a matter of serious concern.

Other serious issues which have been brought to my attention in the area of Custodial Services are deeply disturbing and may well be the subject of attention from the Auditor-General.

I turn now to some of the issues I have touched upon in questions to the minister, particularly in relation to bullying at Cadell. First, I understand that Ms Les has been the subject of a range of bullying claims made by various members of the Department for Correctional Services. I also understand that a number of these complaints have been made to the Public Service Association and that the PSA is currently working through the complaints. Notwithstanding these complaints, she is still the head of her section. I suspect that, by itself, should not be grounds for any action whilst these complaints are investigated. It is not clear whether the minister is aware of this: however, there is more. Secondly, I have received information that a former senior officer at the Port Lincoln goal was the subject of a disciplinary matter. The inquiry related to pornographic emails. I have been informed that the inquiry recommended that the officer concerned be disciplined.

I understand there are also investigations in relation to sexual harassment at Port Lincoln by the same officer. Notwithstanding that, the officer appears to have been promoted to a position at Cadell Training Centre. I use the word 'promoted' because Port Lincoln provides accommodation for 68 medium to low security prisoners, whereas Cadell provides accommodation for 140 prisoners and has a broader range of responsibilities in relation to its population. It has been suggested to me that the officer is a favourite of Ms Les, who has gone to some trouble to protect him and his position. Certainly, a conclusion to that effect could be drawn in the absence of some explanation—and that is the view of some working within the department.

Thirdly, I have also received complaints in relation to the administration of the Port Augusta prison. A senior officer at the Cadell Training Centre during the period of bullying that I raised on Monday evening was transferred to the Port Augusta prison and made responsible for security at Port Augusta. I understand he is also extremely close to Ms Les.

In relation to the *Hogan's Heroes* incident reported to *The Advertiser* last week, I understand it was the same officer in conjunction with Ms Les who was responsible for the turning off of security devices that enabled prisoners to slip out to the hotel and other nocturnal activities without being detected. My informant tells me that the switching off of the security was carried out at the direction of Miss Les. Further, that same officer reported the escapes to Ms Les, who in turn failed to report them to Mr Severin.

Fourthly, the last extraordinary event in relation to corrections is the matter that I raised in my speech on Monday evening on the Appropriation Bill. This was a matter involving a prison officer at Cadell who reported to his manager certain items that had gone missing—missing assets and missing fuel, etc. This was reported in *The Advertiser* and indeed may well be the subject of attention in the Auditor-General's Report. The article states that there were two rival groups in the prison and that a prison officer or warder, who was probably doing the right thing by being a whistleblower, reported this activity. For his good work, he got moved out. The article states that he spoke to his manager about the missing assets, missing fuel, discrepancies and a whole range of things that had happened. I have been informed that this officer was the subject of threats by other officers and the victim of certain other incidents. The article states:

Mr Weir said it was his understanding the allegations were not referred to police for investigation because, given the lower level nature of the allegations, they were mainly administrative in nature.

Based on *The Advertiser* article, it would appear that, if a prison officer who is entrusted with managing our prisons system walks off with a bit of petrol or some tools, we have a different approach. I am told pergolas were built. I am not sure why we have a different approach when it comes to prison officers. Notwithstanding that, the matter was not referred to the Anti-corruption Branch of the police for investigation—that is despite the fact that normally, if things go missing and human intervention is involved, that is theft. The last time I looked, that was criminal conduct. That begs the question: why was it not reported to the police?

I conclude by saying that what is causing enormous rancour with the rank and file members in the Department for Correctional Services is the way in which some officers are being treated in comparison with other officers. For example, a community corrections officer, who was accused of sexual misconduct in relation to female offenders, was suspended on full pay pending the outcome of the investigation. The question is: why is there a different treatment of these officers compared with what is happening in the custodial services section of the department? There is a perception that there are different rules for different people, depending largely upon their relationship with Ms Les in this department. There are some serious issues in the Department for Correctional Services which, if they remain uncorrected, warrant the attention of the Auditor-General.

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

CHILDREN'S PROTECTION (MANDATORY REPORTING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 September. Page 225.)

The Hon. CARMEL ZOLLO: When this legislation was first introduced, it was the view of the government that it be deferred until consultation with churches and religious organisations had been undertaken and completed, and a summary of the view brought to members. For members' information, this consultation was felt appropriate given the concern expressed by many members that the Hon. Nick Xenophon's bill in its present form did not acknowledge the unique status of the confessional. I have to say that the Hon. Robert Lawson expressed the view well in his contribution, when he said:

For hundreds of years the law has acknowledged the unique status of the confessional, and the law has not seen fit to draw back the curtain on the confessional and require ministers of religion who hear confessions in a spiritual and sacramental sense to divulge information which they obtain in the confessional.

In his contribution the Hon. Nick Xenophon acknowledged that the confessional seal for Catholics and other sacramental churches has always been sacrosanct. The Hon. Nick Xenophon in his contribution placed on record that he was persuaded by the Reverend Don Owers and Professor Freda

Briggs that the confessional should be exempted because child protection is paramount. I place on record the commitment of this government to child protection in the state, which has been demonstrated since its taking office.

Those commitments range from the Layton review to the extra child protection officers to be employed in the Department for Families and Communities, as announced in the recent budget. Professor Freda Briggs is someone whose commitment and passion to child welfare is very much respected in the state, as well as nationally. However, I also make the point, made by the Hon. Robert Lawson in his contribution, as to whether or not the Hon. Nick Xenophon seriously suggests that paedophiles, and the like, would make confessions to their priest if priests were obliged by law to divulge that information to the authorities.

As mentioned when this legislation was first introduced, the previous minister for social justice (Hon. Stephanie Key) gave a general undertaking to consult with the churches and religious organisations regarding this private member's bill. This consultation was considered necessary because there are over 180 religious organisations in the state. They need to be aware of the proposed amendment to mandated notifier provisions and consider the implications of the bill for their respective organisation. To date, the views mostly—though not exclusively—of the two mainstream Christian churches have been on the public record, one of which has a sacred communication whereas the other does not. As a consequence, there are two opposing views about whether or not the confessional should be included.

There is a need to ensure that the wider opinion of the religious community is included on the public record. The parliament should be aware of the views of the churches and religious organisations; any collective or specific concerns they may have in relation to the extension of mandated notification to the clergy and other religious personnel; the inclusion of the confessional or other similar sacred communications; whether the religious organisation has this form of sacred communication; and whether employees and volunteers in religious organisations should be mandated notifiers, irrespective of whether or not they are working with children.

The commencement of this consultation was delayed, due to changes in ministerial portfolios last March; and letters inviting comment have been sent to all religious organisations where it has been possible to obtain the name of a contact. A proforma questionnaire has been provided which aims to assist in obtaining clear opinion and good information on all aspects of the proposed private member's bill; now, of course, proposed government legislation, upon which I am about to comment.

Since the Hon. Nick Xenophon's legislation was introduced, we have seen this issue gain even greater urgency. The Minister for Police in the other place on 2 June made a ministerial statement, following the report of the inquiry into the handling of sex abuse claims within the Anglican Church. He announced that the government will now strengthen the state's laws regarding the mandatory reporting of suspected sexual and other abuse. After meeting with the Commissioner of Police, who recommended that the existing reporting requirements under the Children's Protection Act be extended, the government agreed with this position. The Hon. Kevin Foley informed the house that the government would introduce legislation extending mandatory reporting requirements to staff and volunteers of church and other religious organisations. The legislation will include any minister of religion, including a priest, rabbi, ordained minister, Christian Science practitioner or other similar functionary. The requirement would not extend to confessionals—I repeat: will not—and other similar sacred communications.

The government will work closely with church groups in the implementation of these changes. The Treasurer and Minister for Police rightly pointed out that notifiers will require training and organisations will need to develop appropriate protocols. The Hon. Kevin Foley also pointed out that those who prey on young children do not operate only within religious organisations. The law already requires volunteers or persons employed by organisations that provide health, welfare, child care or residential services for children to notify the authorities of suspected cases of child abuse. But child abusers also target other groups which currently may not be covered by the act. That is why the government will further extend mandatory reporting to cover individuals within recreational and other groups who are engaged in the actual delivery of services to children or those who supervise them. The Hon. Nick Xenophon's bill essentially includes all church personnel regardless of whether or not they are working with children. Perhaps that was not the intention; I am not certain. The police commissioner has also recommended that the penalty for failure to notify be increased, and the government will be proposing that the penalty will be increased from $2 500 to $10 000.

As mentioned previously, this government has made child protection a priority from the moment it took office. This government commissioned the Layton report into child protection and has subsequently committed more than $200 million in extra funding for this vital area. This will see the number of child protection staff increased by more than 250 child care workers. The Minister for Police and the Treasurer made the point that the measures he announced would widen the safety net for our children regardless of where they are. Of course, we also have before us for debate the Commission of Inquiry (Children in State Care) Bill.

The government believes that the proposed legislation which was announced in the ministerial statement of 2 June takes into consideration the concerns expressed in the legislation of the Hon. Nick Xenophon in relation to the extension of mandatory reporting without compromising our religious organisations and, most importantly, provides extra protection for children by including the coverage of individuals within recreational and other groups who are engaged in the actual delivery of services to children or those who supervise them. I hope that, when the government legislation is before us, it will receive the support of all in this chamber, in particular that of the opposition, given the comments of the Hon. Robert Lawson. It will be more extensive than this private members' legislation before us. The government needs to consider details in the context of the legislative changes that are imminent. Changes to mandatory reporting should be properly considered in the context of broader legislative changes that are now being developed.

Having made those comments clarifying the action that the government has taken, I indicate that the government is unable to support the legislation in its present form and will, in due course, be introducing its own. It will pick up and expand mandatory reporting. As recommended by Robyn Layton QC it will exclude a minister of religion from the requirement to divulge information committed to him or her in the course of a confession.

The Hon. KATE REYNOLDS: I will make a couple of brief remarks. I will start by saying that I am shocked that the government is not willing to support this legislation or, at the very least, seek to amend the one part that it cannot stomach, which is that the confessional have the curtain pulled back. I remind members (and the Hon. Carmel Zollo made some references to this) that the Hon. Kevin Foley made a ministerial statement on 2 June where he talked about the fact that the government would introduce legislation as the Hon. Carmel Zollo has outlined. However, I think that I was listening carefully enough to note that in her remarks there was one word missing.

I will read the sentence from the ministerial statement, which stated that the government agrees with the position in relation to the need for the Child Protection Act to be extended. The minister stated, 'I can inform the council that the government will urgently introduce legislation extending mandatory reporting requirements to staff and volunteers of church and other religious organisations.' This was on 2 June this year. I think (if I have had enough sleep) that the date is now 21 July—nearly two months later. We have seen in recent weeks that, when it wants to, the government can get legislation drafted very quickly, but on this occasion it has not seen fit to. On behalf of the Australian Democrats, I express our strong disappointment in that.

I pose a couple of questions that we can discuss further in the committee stage. I will preface that by saying that it is the Australian Democrats' position that in relation to child sexual assault—and I remind members that we prefer the term 'assault', not 'abuse', because that is what it is—zero tolerance is the only acceptable position. In his second reading speech, the Hon. Nick Xenophon referred to the need to have clergy do mandatory reporting training and, thus, increase their awareness, skills and sense of responsibility in general practice. We firmly believe that it is necessary to have mandatory reporting training extended much further. Should this bill succeed—I suspect now that it is not going to, sadly—we would hope that any bill from the government will be accompanied by a commitment to assist not only church organisations but also all the other organisations that will be affected by this much-needed extension of the mandatory reporting requirements to properly train not only their paid staff but also their volunteers, because many community organisations, particularly those that work with children and vulnerable young people, rely extensively upon the use of unpaid labour to carry out that work.

I have two questions for members to think about. A number of members have expressed concern about a minister of religion not being able to reveal or act on something that was said in a confessional. There seems to be an assumption that the only people who might confess behind the confessional curtain are perpetrators. I know of a number of children and young people who, during confession—and whatever the various religious practices choose to call it—have disclosed forms of abuse that have occurred to them. These children often experience a whole range of feelings, including guilt, about what has happened to them. Does this mean that, if the requirement for a minister of religion to conceal what has been said in the confessional is allowed, they also cannot act if a child has told them something? To me, that is abhorrent and I cannot accept it.

The current Child Protection Act (and I believe the amendment proposed by the Hon. Nick Xenophon does not alter this) refers to employees. I remind members that a number of ministers of religion in this state are employees. Whether they are a direct employee of a church organisation or whether, under Australian taxation law, they are classified as an independent contractor, certainly, there are people who would be covered by this legislation as it stands who are, as has been revealed in recent weeks, not meeting their legal obligations to protect children.

We will certainly be supporting the bill. We look forward to discussion around the clauses relating to the confessional, but the Australian Democrats' position absolutely clearly is that zero tolerance is the only acceptable way in which to deal with child sex abuse—and, of course, members will know that mandatory reporting is not confined to sexual abuse or assault; it also covers other forms of abuse.

The Hon. NICK XENOPHON: I thank honourable members for their contributions. I note the comments of the Hon. Robert Lawson on 17 September 2003, when I first introduced this bill. The Hon. Mr Lawson expressed concerns in relation to the most contentious aspect of the bill, and that relates to not exempting the confessional. I also note the comments of the Hon. Carmel Zollo in that regard and the questions that have been posed by the Hon. Kate Reynolds. It is my intention that this bill proceed to a second reading vote tonight and that, when the parliament resumes in several weeks for private members' business, we deal with this bill as expeditiously as possible.

In terms of context, the Layton report, upon which this bill is based (except for one important fact, and that is not to exempt the confessional), as I understand it, was tabled in March 2003, and it could well be that the report was available to the government some time before that.

The Hon. Kate Reynolds: December 2002.

The Hon. NICK XENOPHON: The Hon. Kate Reynolds indicates that it was December 2002. There appears to be broad support for the proposition that the Layton recommendation should be implemented in order to ensure that a new class of people, particularly church workers and ministers of religion, become mandatory notifiers; that is not in contention. That recommendation was made a considerable period of time ago, and it was only following the tabling of the report into the abuse within the Anglican Church by former justice Trevor Olsson that the government announced that this legislation would be forthcoming in terms of its being based on the Layton recommendations. I understand that that is the most controversial aspect of this legislation.

I wish to point out to members that, when this matter is next before the council, I hope to have the views of Professor Bill Marshall. Professor Marshall, as I understand it, was invited by the department of corrections to give advice on rehabilitation programs for child sex abusers. This is a man who has a significant degree of expertise with respect to this issue—in fact, he was invited by the Vatican last year to be part of a panel of six experts from around the world to advise on how to deal with abuse within the Catholic Church and its religious orders. This is a person who acknowledged, when he spoke at the lecture that I attended last week at the University of South Australia, that he happens to be an atheist; yet the Vatican still sought his advice because of his expertise. Someone asked a question about his view of the confessional—whether a priest hearing a confession involving child abuse should report it—and Professor Marshall's answer was that it should be. That was quite interesting, coming from someone who has significant expertise. I acknowledge the discussions that I have had with Archbishop Phillip Wilson, and I acknowledge his genuine concern about

the evil of child abuse within churches and dealing with this issue effectively.

A few months ago, *The Australian* newspaper and *The Courier Mail* in Brisbane published quite disturbing reports of a priest in that state who had gone to the confessional and confessed to some 1 500 instances of abusing children over something like a 20-year period. That highlights, I believe, the need for us to seriously consider whether or not there ought to be an exemption for the confessional. I also acknowledge Professor Freda Briggs, from whom I sought advice some time ago and with whom I have kept in contact. Her view was that there should be zero tolerance to child abuse. She was supportive of this measure. However, I think I can fairly summarise Professor Briggs' more recent view that it is important to at least ensure that priests and church workers are mandatory notifiers. She sees the issue of the confessional as—

The Hon. T.G. Cameron: When you say 'priests', which religion are you talking about?

The Hon. NICK XENOPHON: The Hon. Terry Cameron has asked what I mean when I say 'priests'. I am referring to all religions; I am not exempting any.

The Hon. T.G. Cameron: All religions that call their ministers priests? It's rather confusing.

The Hon. NICK XENOPHON: I thank the Hon. Mr Cameron for his comments.

The Hon. T.G. Cameron: There's a bloody great big cover-up going on about all of this—and not just by the government, either. Some of us know what's being covered up.

The Hon. NICK XENOPHON: Yes. The wording of the legislation refers to a minister of religion and, further, an employee or a volunteer in the church or other religious organisations. My understanding is that that is quite broad and based on the Layton report recommendations. That is something that can be further explored in the committee stage, should this bill be passed at the second reading stage.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! Interjections are out of order.

The Hon. NICK XENOPHON: I think the points raised by the Hon. Mr Cameron are important, and I think the committee stage might be the most appropriate way to deal with these issues comprehensively. In relation to Professor Briggs, I think her main priority is to ensure that ministers of religion, those who work for religious orders, volunteers and church workers are mandatory notifiers. She sees the issue of the confessional as a secondary issue. I think it is a fair summary of Professor Briggs's views. They have been made absolutely clear, so that there is no misrepresentation of the views. I urge honourable members to support the second reading of this bill. Given that the Layton recommendations were made some 18 months ago, I believe it is important that we deal with this as expeditiously as possible. It will give honourable members a chance to reflect and to get the information that has been sought from various church groups and religious organisations so that this bill can be dealt with thoroughly and as soon as practicable in the spring session of parliament.

Bill read a second time.

PARLIAMENTARY COMMITTEES (FUNCTIONS OF ECONOMIC AND FINANCE COMMITTEE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 June. Page 1009.)

The Hon. D.W. RIDGWAY: I will sum up the debate on behalf of the Liberal opposition and note that I recognise that this is unlikely to progress very far this evening, other than perhaps to pass the second reading stage and move into committee as we did with previous bill. I was interested to note that, after notifying members that I wanted to progress with this, the Australian Democrats indicated that they would not be supporting it because they have had insufficient time to consider it. I introduced the bill on 27 November 2003. While I acknowledge that my notice was only recent, it has been on the *Notice Paper* for some eight months.

As I mentioned in my second reading speech, under the Parliamentary Committee Act as it stands, the Economic and Finance Committee is unable to inquire into statutory authorities, because of the many changes moved by previous governments to prevent overlapping powers and because it was supported by the parliament when the Statutory Authorities Review Committee was established. There was some concern about the duplication of powers when the Statutory Authorities Review Committee was established but, in my view, it was not the intent of the committee to ban the Economic and Finance Committee from addressing matters in relation to statutory authorities.

As I mentioned in my second reading contribution, with the Economic Development Board's report and recommendation 9 released in May 2003, the government was to develop a policy framework identifying criteria to establish a statutory authorities or advisory body. The recommendation will ensure that all existing new bodies have sunset clauses to ensure that if they do not meet the criteria they will be wound up. Recommendation 10 from this contribution states that the government should consider spilling all existing statutory authorities, advisory bodies and other government boards to ensure that, if they do not meet the criteria, they should also be wound up. There are in excess of 400 government boards and statutory authorities, so that load would be quite significant for the Statutory Authorities Review Committee. I guess that, if and when recommendations 9 and 10 of the Economic Development Board are implemented, this legislation may perhaps be more acceptable to the house. With those few words I thank everybody for their contributions and urge that the bill be accepted.

The council divided on the second reading:

AYES (7)

Dawkins, J. S. L.	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W. (teller)
Stephens, T. J.	

NOES (11)

Cameron, T. G.	Gago, G. E.
Gazzola, J.	Holloway, P. (teller)
Kanck, S. M.	Reynolds, K.
Roberts, T. G.	Sneath, R. K.
Stefani, J. F.	Xenophon, N.
Zollo, C.	

PAIR(S)

Schaefer, C. V.	Gilfillan, I.

Majority of 4 for the noes.

Second reading thus negatived.

ECONOMIC DEVELOPMENT

Adjourned debate on motion of Hon. Sandra Kanck:

That this council notes the failure of the Minister for Infrastructure to develop and implement a strategic plan for the maintenance and enhancement of South Australia's infrastructure as outlined by the Economic Development Board in its report 'A Framework for the Economic Development of South Australia'.

(Continued from 26 May. Page 1623.)

The Hon. SANDRA KANCK: I thank members for their contribution. I particularly admired the courage of the Hon. Gail Gago who was given the task of defending the indefensible. Her speech was definitely a case of QED, that is, which was to be demonstrated, because the honourable member showed that this government has not taken any initiatives in the infrastructure portfolio. The Hon. Gail Gago read a roll call, which was a list of projects that had been initiated by the former Liberal government.

When I gave notice of this motion, I wondered whether I was being a little too quick off the mark. By doing that I thought that I was almost setting myself up and, for certain, there would be some sort of profound announcement immediately prior to the revisit of the Economic Summit at the beginning of April. The government would then be able to say, 'No, you got it wrong.' But that did not happen. Then, I waited for an announcement in the state budget that would prove me wrong, and that did not happen either.

On Monday, when we debated the Appropriation Bill, I provided the government with a list of some suggestions of infrastructure investment for the state. It was not an exhaustive list. It concentrated mostly on transport, but there are so many other opportunities just in building construction alone. The Barossa Health Services is still awaiting the construction of a new hospital on land that has been set aside and cleared for many years. Housing Trust construction would provide jobs for builders and labourers, plus homes for the many on the waiting lists for basic accommodation in what would be a win-win situation.

Last week I attended the Business Vision 2010 launch in which its paper 'Making a difference through benchmarking' was launched by our state Treasurer, who is keeping a tight hold on the purse strings. The irony of his role is that this document is critical of the government for the lack of spending, and it states:

Capital expenditures have remained about 1 per cent of GSP (lower than the average of all states). Relative to all states, governments in South Australia have grown their expenditures on current services at the expense of capital for the future.

Clearly, South Australia needs the investment in infrastructure spending both in repair and maintenance of existing infrastructure (some of which is on the verge of collapse) and the building of new infrastructure. Three times in a row in state budgets the government has failed to recognise this need. Perhaps next year in the budget leading up to a state election this government might finally see the light. By then, given the number of times the government has passed on this, the response of the Democrats and others will be understandably cynical.

The council divided on the motion:

AYES (11)

Cameron, T. G.	Dawkins, J. S. L.
Kanck, S. M. (teller)	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Reynolds, K.
Ridgway, D. W.	Stefani, J. F.
Stephens, T. J.	

NOES (5)

Gazzola, J.	Holloway, P. (teller)
Roberts, T. G.	Xenophon, N.
Zollo, C.	

PAIR(S)

Schaefer, C. V.	Gago, G. E.
Gilfillan, I.	Sneath, R. K.

Majority of 6 for the ayes.

Motion thus carried.

LAND AGENTS (INDEMNITY FUND—GROWDEN DEFAULT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 July. Page 1934.)

The Hon. CARMEL ZOLLO: This legislation was introduced in another place as a private member's bill and proposes a compensation scheme for those who have suffered loss at the hands of failed mortgage broker G.C. Growden Pty Ltd. I am pleased to note that the bill has had some significant revision as a result of some sensible amendments by the Minister for Consumer Affairs without which the bill would have been unworkable.

The Growden debacle has a sad and lengthy history. G.C. Growden Pty Ltd was a conveyancing and mortgage broking company which offered investors high returns on loans that it transferred to borrowers to use in commercial development projects such as hotels and housing developments. For a number of years the company and its investors did very well in a booming property market. In the early 1990s, however, things started to turn sour and it emerged that many of the properties were no longer realising anything like the value of the invested funds. Many borrowers defaulted and the investors lost out because when the properties were sold there was not enough to repay the capital investment.

Investors made claims against the Agents Indemnity Fund which was created under the Land Agents Act 1995 to compensate consumers who had suffered fiduciary loss at the hands of conveyancers or land agents. The money in the fund is made up of the interest that accrues on agents and conveyancers trust accounts. From the late 1980s onwards, agents and conveyancers petitioned governments of both persuasions to remove consumers' access to the fund where the loss had occurred at the hands of a conveyancer who was acting as a mortgage broker. This was because a disproportionately high number of claims resulted in these circumstances.

The amendment was achieved with the passage of the Conveyancers Act 1995 by the Liberal government. The effect of this was that Growden investors ceased to have access to the fund as of 1 June 1995. Growden subsequently went into liquidation 18 months later, with hundreds of investors from 1993 to 1996 suffering significant losses of tens of thousands of dollars.

Over the past four years, claims for investments with Growden prior to 1 June 1995 have been paid by the Commissioner for Consumer Affairs to the tune of about $5 million. Claims for investments after that date, except for what are known as first rollovers, were refused. This was based on the amendment that the Liberals had made. Then, to everyone's surprise, two District Court decisions in August 2003 found that virtually no Growden claimants were eligible to be paid; that is, the court found that the standard Growden

arrangement did not amount to fiduciary default at all, including for pre June 1995 investors.

Hence we had a situation in which several hundred claimants with pre June 1995 investments had been paid but several hundred had not, and apparently had no entitlement to be paid. There were also all the post June 1995 claimants, who argued that it was unfair that they should have been excluded by the Liberal's amendment to the Conveyancers Act 1995, which excluded them because they invested after June 1995. Truly this is a unique set of circumstances, and it is because of this extraordinary history that the government supports the bill.

In effect, the bill will enable the Commissioner for Consumer Affairs to treat the standard sort of Growden investment, whether it occurred before or after June 1995, as an eligible claim where loss has been sustained. I understand that the Commissioner anticipates that somewhere between $10 million and $20 million will be dispersed under the new provisions over the next six to 12 months. The exact figures are not known because it will be necessary to advertise nationally for persons who were previously ineligible to come forward and make a claim on the fund.

I think it is important for the public to understand that it is not usual for the government to step in and effectively provide compensation for losses on investments. Indeed, this should not be seen as setting a precedent for other investors. The laws around financial services are continuously being tightened to stop the sort of situation that Growden and its clients found themselves in. However, the government will not be a party to bailouts whenever things go wrong in the business world.

It is for this reason that the government has been cautious about agreeing to the bill. In its original form the bill would have had some unsatisfactory outcomes. However, I am pleased to say that it now has bipartisan support and that it has been amended by the government to ensure that it will have the effect that it was intended to have all along and provide the basis for the assessment of hundreds of new claims and the reassessment of previously refused claims.

The Hon. J.F. STEFANI: I did not want to make a contribution, but I feel compelled to say a few words about this bill. I think that the credit for the championing of this cause should be recognised, because the Hon. Terry Cameron fought very hard for the matter to be brought to the notice of the public and the parliament. I recognise that the issue of compensation of this nature is unusual, but some very unusual circumstances surround this case.

Certainly, the Growden investors, by and large, were people who were very much dependent upon an outcome of income from their investment, and those people were left destitute in some instances. Again, I feel that the credit is owed to the Hon. Terry Cameron, because he was very persistent about this cause. I recognise that the Hon. Iain Evans has taken the matter on board and, with the assistance of the government, has reached a compromise that will see these investors get some return for their investment. I support the bill.

The Hon. R.D. LAWSON: On behalf of the Hon. Terry Cameron, who is presently indisposed, I seek leave to reply to the second reading debate.

Leave granted.

The Hon. R.D. LAWSON: On behalf of the Hon. Terry Cameron, I thank members for their expressions of support and their contributions to the second reading debate on this important measure. With some regret, I note the reluctant and rather churlish failure of the government to acknowledge the commitment of the Hon. Terry Cameron (the mover of this bill) and the Hon. Iain Evans for their efforts in ensuring the passage of this bill. It was regrettable that the Hon. Carmel Zollo on behalf of the government failed to acknowledge that considerable work, and I think she indicated the reluctance of the government to accept the measure. Indeed, it was only when faced with the force of numbers against its position that the government reluctantly acknowledged the justice and appropriateness of this measure.

I look forward to the committee stage and the rapid passage of this bill so that those investors who suffered as a result of these defaults will finally, after very many years, receive at least a contribution to the capital which they lost. It is hoped of course that the fund will be sufficient to meet the capital losses of all claimants.

Bill read a second time and taken through its remaining stages.

DRY ZONE

Adjourned debate on motion of Hon. Kate Reynolds:

That the regulations under the Liquor Licensing Act 1997 concerning long-term dry areas—Adelaide and North Adelaide—made on 30 October 2003 and laid on the table of this council on 12 November 2003 be disallowed.

(Continued from 2 June. Page 1745.)

The Hon. KATE REYNOLDS: In November last year I put forward a motion in this place to disallow the continuance of the dry zone. That was because the Australian Democrats still consider that the dry zone should be abolished. We still believe that it is a racist attempt to keep some indigenous people out of Victoria Square. However, it is not just about racism. It is also about the effect that this is having on people. It is about their welfare. The objectives of the dry zone do not relate to the welfare of some of the most disadvantaged people in the city. In our view, the dry zone is about keeping these people out of the public eye. If the dry zone aimed to remove indigenous people from Victoria Square, then this has been achieved, but, as an *Adelaide Review* article in December last year suggests, if the aim was to find sensitive, lasting solutions to substance abuse, homelessness, psychiatric illness and cultural expression there is still some considerable way to go.

In considering the objectives of the dry zone, I believe it is easy to see why the 2003 evaluation report called for its extension. It is clear that the objectives are not about the welfare of people but, rather, about cleaning up the city. When I say 'cleaning up' I mean this in only the most superficial way. Objective 3 states that the dry zone sought to have an improved perception of safety in the city; and this is all about perception, not about reality. When considering the reality known to the people on the ground—the welfare agencies that work with these now displaced people—it is clear that the dry zone is not working.

Indigenous support workers are adamant that indigenous people have been forced into the West Parklands as a result of the dry zone; forced out of the sight of city dwellers, business operators and visitors to the city; and forced out of sight of the agencies set up to ensure their safety. Just this morning, after one of the coldest nights of winter, I walked through the West Parklands and saw for myself how difficult

it is for welfare agencies to locate and offer services and support to the homeless people who have been driven out of sight—and some people would have hoped, I think, out of mind—and certainly out of the city as a result of the dry zone.

Agencies such as Karapandi Women's Centre said earlier this month that the dry zone has made the parklands one of the most dangerous areas in Adelaide. The Adelaide Central Mission, the Aboriginal Sobriety Group and SACOSS (South Australian Council of Social Service) maintain their opposition to the dry zone for the simple reason that it is doing more harm than good. If the government was serious about making people feel safe, it should look at addressing the perceptions of non-indigenous people. As the Aboriginal Legal Rights Movement lawyer Christopher Charles said in a 2003 article in the *Adelaide Review*, the facts show that Victoria Square is not an overly dangerous place but misinformed public debate has created a perception of fear.

The government should be sending the right message; that is, that indigenous people are not dangerous just because some choose to meet and some choose to drink together outside in what is one of the city's most popular open spaces. The government needs to prioritise welfare services in the city. Whilst it set up a stabilisation facility and has some other plans in the pipeline, it needs to work faster. People are suffering today, everyday, as a result of the dry zone and we ask: who is the government to expect them to continue waiting for much needed services? I ask members to walk through the parklands and ask the young indigenous woman who has been stabbed in the back and had her teeth knocked out what the dry zone has done for her. I urge members to support my motion but, given the comments made previously by speakers from the opposition and the government, I will put on the record that I do not expect this to pass.

Motion negatived.

CHICKEN MEAT INDUSTRY (ARBITRATION) AMENDMENT BILL

Second reading.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): On behalf of my colleague the Hon. Terry Roberts, I move:

That this bill be now read a second time.

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

Leave granted.

This Bill amends the *Chicken Meat Industry Act 2003* (the ***current Act***) to achieve compliancy with National Competition Policy. The current Act has been assessed by the National Competition Council (***NCC***) as non-compliant, resulting in a 5 percent permanent annual reduction in competition payments, with the amount for 2003-2004 being $2.93 million.

Parliament passed the *Chicken Meat Industry Bill* on 16 July 2003 to repeal the *Poultry Meat Industry Act 1969* and offer growers a choice between collective or individual bargaining with processors. Collective bargaining under the Bill was supported by compulsory mediation and arbitration as disciplines to negotiation.

The basis for the development of the current Act was to address concern about the significant imbalance in bargaining power between growers and processors and, consequently, the power imbalance in the contractual and other on-going relationships between those 2 sectors of the industry. That this imbalance exists is not in debate. The case for addressing the imbalance of power in negotiation between growers and processors of chicken meat clearly has been established and accepted, including by the NCC.

As part of the development of the original Bill, a broad program of consultation was undertaken with all parties. Negotiations with NCC officers during the early development of the original Bill led South Australian government officers to believe that compliance was possible. The Act was proclaimed to come into operation on 21 August 2003, with suspension of nearly all but the transitional provision initially, pending a decision by the NCC on the compliance of the Act and, later, on the outcome of the State's appeal to the Federal Treasurer on the penalty imposed.

The November 2003 assessment of the NCC found that the Act was not compliant. Reasons given for non-compliance included likely higher transaction costs arising from compulsory arbitration for negotiating contracts, higher growing fees making South Australia less attractive for processor investment, and the prospect of similar or more restrictive arrangements being introduced in jurisdictions that earlier opened their markets to greater competition.

The South Australian Government subsequently lodged an appeal with the Federal Treasurer against the NCC assessment and was notified on 8 December 2003 that its appeal had been unsuccessful.

The Minister met with the President of the NCC in March to seek resolution of the situation following correspondence and approaches initiated by the previous Minister to establish an earlier meeting. The NCC suggested that to achieve compliance the South Australian legislation needed to be amended.

Some concessions by the NCC have been made but their core objection continues to be against compulsory arbitration in relation to resolving disputes during negotiations for new or renewed contracts.

The current Act makes several references to mediation and arbitration with both being available to resolve disputes arising from a contract in progress, and the exclusion of a grower from a collective negotiating group. For resolving disputes arising from negotiating growing agreements, arbitration can be sought by either party. The effective date for access to the mediation and arbitration provisions was set by the initial proclamation of the Act on 21 August 2003.

It is now clear that the NCC will not change its view on the current Act with the main offending part narrowed down to the availability of arbitration when growers and a processor cannot agree on a contract (ie Part 5, Section 21). Other provisions appear to be acceptable to the NCC, provided that arbitration as a possibility in current Part 5 is replaced by mediation.

A competition payment penalty will result from the NCC's 2004 assessment if the Act is not amended by June 30 2004.

The replacement of arbitration by mediation in the Act on disputes relating to collective negotiations for growing agreements may be seen as a change from the original intent of Parliament. However, the Act with this amendment still imposes significant disciplines on both processors and growers and, in particular, obligates processors to negotiate with groups of growers in a way that has not previously been available to growers in this State. Significant mediation and arbitration provisions still continue to be available, unchanged by the proposed amendments.

Without testing the effectiveness of these provisions and the role of the Registrar in maintaining these processes to resolve disputes between growers and processors, we will not be able to convince the NCC of the need for compulsory arbitration for contract negotiation. Growers may see these amendments as changing the balance of power in favour of processors but, even with this concession to the NCC, the negotiation power of growers operating under the Act will be much improved in comparison to recent experience.

The NCC also argued that access to arbitration, following notice from a processor that a grower is to be excluded from a negotiation group and therefore a future contract, should be limited to growers who were in the industry prior to 1996. It argued that later entrants would have been aware that the industry was not to be regulated following the introduction of the 1996 Bill to repeal the *Poultry Meat Industry Act 1969*.

The Government's view, however, is that there is no basis for the NCC's position on the 1996 cut-off and, indeed, the growers' demands for regulation and their expectations were higher after the Repeal Bill failed to pass through Parliament than previously.

The Bill amends the Act to restrict access to compulsory mediation/arbitration provisions to growers who are participants in the industry prior to the Act taking full effect after Proclamation.

If the Government fails to make the changes to the legislation required by the NCC by 30 June 2004, State competition payments received in 2005-06 from the 2004 assessment would be reduced by another 5 percent ($2.93m in 2003-04).

The Government will carefully monitor the operation of the amended *Chicken Meat Industry Act 2003* to ensure that mediation

on contract negotiation is effective and to ensure that it facilitates the orderly adjustment of the industry through better negotiating processes. In the end, South Australia must strive to be competitive, and become competitive, with growers in other States if we are to maintain our industry. This Act is intended to support that principle.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Chicken Meat Industry Act 2003*

4—Amendment of section 5—Intention of Act

This amendment is consequential on the removal of the right to seek arbitration in relation to disputes under Part 5.

5—Amendment of section 9—Registrar's obligation to preserve confidentiality

This proposed amendment will allow for the Registrar to provide a mediator mediating a dispute under the Act with information that would otherwise be confidential.

6—Amendment of section 21—Mediation

The proposed amendments to this section will remove the right to seek arbitration if a negotiating group fails to agree a growing agreement within a certain period and instead provide for such a dispute to be referred to mediation.

7—Amendment of section 28—Interpretation and application

The proposed amendments will restrict the application of Part 8 to disputes relating to the exclusion from collective negotiations for a further growing agreement of growers to those growers who were, immediately before the commencement of Part 8, party to a growing agreement collectively negotiated with the processor, or party to such an agreement when it expired.

8—Amendment of Schedule 2—Arbitration

This amendment is consequential.

The Hon. R.D. LAWSON secured the adjournment of the debate.

EMERGENCY MANAGEMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2095.)

The Hon. R.D. LAWSON: I indicate Liberal support for the passage of the Emergency Management Bill. In an extensive debate in another place a number of members of the opposition made various points in relation to this important measure. I do not propose to canvass a number of those issues again, but I think it is important to say that, when enacted, this bill will replace the existing State Disaster Act. That act was introduced by the then premier and treasurer the Hon. David Tonkin in November 1980. In introducing the bill, which was then a novel bill, he stated:

> The purpose of this. . . Bill is to make provision for the protection of life and property in the event of disaster by providing for a State Disaster Organisation clothed temporarily in adequate powers. Experience in dealing with disasters elsewhere highlights the necessity for legal backing for those who have to shoulder the burden at a time of emergency. Not only do responsibilities need to be clearly defined but the extent of the powers temporarily vested in the combatants also needs to be set.

The then State Disaster Act served this state very well. It is not often that the provisions of the act have to be activated but, from time to time, there are events which may warrant invoking the procedures laid down in legislation of this kind.

The essential features of the 1980 act are preserved in the legislation which is now before the parliament, although the new bill contains a number of important improvements in the light of more recent developments. The new Emergency Management Bill retains the State Emergency Management Committee and stipulates its functions and procedures. It deals with delegation to the powers of that committee and, in that respect, it repeats a similarly named committee, which was previously called the State Disaster Committee under the old legislation. The new bill deals with the appointment of the state coordinator. The state coordinator is the Commissioner of Police, who was the coordinator under the previous legislation. It is important that measures of this kind provide for a clearly designated authority in the event of a need to invoke the powers of the legislation. The police in this state occupy a central professional role—a well-organised, highly disciplined, well resourced body of personnel with the Police Commissioner at the head of the police. It is entirely appropriate that the coordinator's role be vested in the Commissioner of Police.

It is interesting to see, in a number of the disastrous events that have occurred around Australia in recent times, the capacity for bifurcated apparent responsibilities between, for example, fire authorities and police. The disastrous bushfires in Canberra are a good example of the apparent (and I say 'apparent' because I have not studied the findings of subsequent inquiries in great detail) differing responsibilities between, in that case, police and firemen. The bill will provide for the declaration of emergencies; it will define the powers which may be exercised in relation to declared emergencies; and it provides sundry other offences and miscellaneous provisions, such as immunity from liability and the like.

This bill is the result of an internal review, which was commissioned by the government and which I understand was conducted by Mr Nicholas Newland. It is a matter of some regret that the full review prepared by Mr Newland has not been tabled in the parliament or available for perusal. The Hon. Mr Gilfillan, in a contribution earlier today, lamented the fact that the review was not publicly available. We ourselves have not felt under any constraint by reason of the unavailability of that review. We have had the benefit of thorough briefings, and I express my appreciation, as did the shadow minister (Hon. Wayne Matthew) in the other place, for the helpful briefings that have been provided. I acknowledge the assistance given in a briefing from Inspector Miller and Mr Monterola, as well as ministerial staff, to explain to the opposition the circumstances of the bill.

In the second reading explanation and the briefings, we have been advised of the inadequacies that were identified as part of the review, and those inadequacies can be briefly described as follows. The existing legislation provides insufficient clarity of governance arrangements between the Emergency Management Council (which will continue in existence), the Emergency Management Standing Committee and the State Disaster Committee. The existing legislation contains a lack of focus about issues surrounding terrorism and protective security, they being issues that were neither thought of nor experienced in those happy days of the 1980s.

The review identified a need to increase involvement by local government and the owners and operators of key infrastructure services, such as electricity, gas and oil. In that particular connection, I note that there has been for some time a review of major hazard facilities in South Australia, following upon the disaster that occurred at Longford in Victoria, when, as a result of a gas explosion in that plant, the city of Melbourne was greatly inconvenienced for some

considerable time not only in relation to domestic gas supply but also industries, and not to mention, of course, the loss of life as a result of that disaster.

I ask the minister, in his summing up (or, if that information is not to hand, I ask that a report be provided to the parliament), to comment on the progress being made in relation to major hazards facilities plans for this state. We, of course, have a number of facilities, such as the Moomba gas plant and the facilities at Roxby Downs. There are electricity generating plants and explosive manufacturing chemical plants. Regrettably, we no longer have an oil refinery, which might provide a major hazard facility, but plans for the way in which this state will deal with any breakdown or untoward incident at those facilities is a matter of public interest and ought be on the public record, especially when one is considering new procedures in relation to emergency management generally.

This bill has been drafted to remedy the inadequacies that I have mentioned and also to address a lack of accountability by government chief executives for emergency management and protective security planning. The responsibility for government chief executives is now more widely recognised. The second reading explanation speaks of a series of emergency management zones that would be established across the state, including within the metropolitan area, and there will be a zone emergency management committee and also hazard leaders. The plan appears logical and sound.

Unfortunately, from time to time in this state we have bushfires, some of which can be significant, as were the bushfires of Ash Wednesday. We have had earthquakes, at least one of which (fortunately, almost 50 years ago now) was serious. From time to time we have floods. There was an emergency situation at Glenelg only last year as a result of flooding of the Patawalonga. It is easy to see that this state is not immune from natural disasters, nor should we assume that we are immune from a terrorist or other man-made incident or mischief. Accordingly, it is appropriate to lay the foundation for appropriate planning and to ensure that police, ambulance, emergency services, fire services and the like are appropriately organised, that lines of authority are established and that civil disruption is minimised.

I think it is appropriate, on occasions such as this, to acknowledge the professionalism, dedication and commitment of our professional services such as the police, the Metropolitan Fire Service and the Ambulance Service and also to acknowledge the important contribution made by volunteers in the Country Fire Service and the State Emergency Service as well as other smaller rescue organisations. Experience has shown that the importance of coordination and planning in the event of disasters and incidents is something that cannot be underestimated.

I should also mention a number of amendments and comments which were made and which will not be pursued in another place or here. The member for Morialta made an important contribution in her role as shadow minister for the status of women in relation to the gender balance of the various committees established under this legislation. As most of the positions are designated by virtue of the holders of particular offices, it is difficult to ensure the normal gender balance that we would expect, although we are glad to see that some concessions were made by the government on this important point.

I mention also that the member for Waite, who has a particular interest in military matters by reason of his distinguished service in the Australian Army, sought on behalf of the opposition to ensure that there was a formal representation in our emergency management structures for representatives of the Australian Defence Force. That was not accepted by the government, and that is a matter for regret, but the minister stated the reasons why. However, I think it is appropriate that we here acknowledge the important role that defence personnel play in many emergencies, and the role that we expect they will continue to play, notwithstanding the fact that they may not be formally represented on the state committees and councils. I indicate opposition support for the rapid passage of this matter.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank the Hon. Rob Lucas and the Hon. Ian Gilfillan for their contributions to this bill, and I certainly endorse the remarks of the Hon. Robert Lawson in relation to the work that is performed by all of our emergency services. The Hon. Ian Gilfillan this afternoon raised two questions. The Minister for Emergency Services has provided the following information in answer to those questions.

In relation to the interface between the new state legislation and federal legislation, the following information is provided. Because the responsibility for responding to emergency situations lies with state governments, legislation in this area is state legislation. All states and territories have emergency management legislation. All jurisdictions are members of the Australian Emergency Management Committee which assists the coordination in emergency situations. There is strong consultation on a day to day basis between jurisdictions at all levels of government. The reason a report of the review into the State Disaster Act is not being released is because it was a document prepared for cabinet. As members are aware, it is not the practice of governments to release cabinet documents.The bill complements the broad recommendations of the review. The Hon. Ian Gilfillan has been offered a briefing on the contents of the report by the Director of the State Security and Emergency Management Office.

The Hon. Robert Lawson also asked about the report that had been prepared following the Longford explosion in Victoria. I believe he is referring to the draft report that is being prepared on the critical infrastructure that is needed, and that is being done by the Emergency Management Office. I can report that that is still in the draft stage, so the government would not be in a position to release that draft report. I again thank honourable members for their contributions and look forward to the speedy passage of the bill.

Bill read a second time and taken through its remaining stages.

MEDICAL PRACTICE BILL

Adjourned debate on second reading.

(Continued from 19 July. Page 2037.)

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank all members for the time and effort they have put into this bill. The Medical Board of South Australia has been asking for changes to the existing act for the past 20 years. It is my hope that it will have a new and contemporary act to administer in the near future. There have been some issues raised in the other place and the council that I wish to address. First, the composition of the Medical Board of South Australia has been a concern

to some members. However, I think that many members have a misunderstanding of the role of the board and, consequently, how it should be constructed. The Medical Board is not meant to be a representative body in the normal way that we think about a representative body. The object of the bill is to tell us succinctly what the point of this legislation is. It is 'to protect the health and safety of the public by providing for the registration of medical practitioners and medical students, to regulate the provision of medical treatment for the purpose of maintaining high standards of competence and conduct by the persons who provide it.'

Clause 13 describes the functions of the board. The first function is to regulate the practice of medicine in the public interest. Therefore, it is very clear that the purpose of this bill and, by extension, the role of the Medical Board is to act in the public interest by ensuring that the standard of medical practice is high, that people practising medicine are properly registered and that the health and safety of the public is protected.

In achieving these outcomes it is important that the Medical Board has an appropriate mix of people with differing skills and knowledge. I want to make it very clear that it is the skill and knowledge mix on the board that is critical to the issue, not whether or not it is representative. The Medical Board of South Australia is not an industrial body representing the industrial interests of medical practitioners. It is a statutory authority responsible for protecting the public. The Medical Board is not there to advance the interests of medical practitioners: it is there to protect public health and safety.

The Minister for Health has thought long and hard about the composition of the board and is satisfied that the membership, as currently drafted, will enable her to craft a board with an appropriate mix of skills and expertise. It may well be that some members of the board will be members of the AMA, work in the public or private sector, or in the rural or metropolitan setting. That is all well and good; however, it will not be the primary reason for them being selected to be a member of the Medical Board. The reason they will be asked to serve on the board will be that they have the skills and knowledge necessary to assist the board to discharge its statutory responsibilities.

The second significant issue of concern is the exemption of public hospitals and health centres incorporated under, or private hospitals licensed under, the South Australian Health Commission Act 1976. These bodies are exempt from the existing act. The reason for the exemption of these bodies (and they are not exempt from all provisions of this bill) is that the Minister for Health has the power to direct these bodies or to impose conditions on private hospitals through the licensing system. The bodies which will be captured by the definition of medical services provider are those that are not accountable to the minister or any other authority in regard to the conduct of their medical services, and it is appropriate that they are subject to the total jurisdiction of the Medical Board.

The minister is aware that the Medical Board was concerned that if certain providers are exempt under the legislation then the board may not receive information concerning the practice of medicine that they require in order to carry out the functions of the bill. The minister has proposed a series of amendments which, whilst retaining provision for exempt providers, effectively addresses the board's concerns. I understand that the Medical Board is satisfied and supports these amendments.

The manner in which the clauses dealing with insurance have been drafted has also been the subject of some debate. One thing we are all agreed upon is that, as a matter of policy, practitioners and providers will not be asked to have public liability insurance. It has never been the intention of the minister to make practitioners and providers have this sort of insurance. Medical indemnity insurance and insurance to cover the cost of disciplinary proceedings will be required. Advice from the Crown Solicitor's Office states that in determining the nature of the insurance required, the words 'in connection with' are very important and that a court would be likely to interpret this to mean civil liabilities incurred directly in connection with the provision of medical treatment. Therefore, it is not necessary to explicitly exclude public liability insurance. The advice from the Crown Solicitor's Office did, however, suggest that if insurance to cover the costs of disciplinary proceedings is required then this should be explicitly stated, and this has been done.

The matter of infection control is one that has considerably exercised the minds of members, and rightly so as it is an important issue. The Minister for Health said that she would seek advice from the Crown Solicitor's Office and she has done so. This advice states:

> Clause 86 empowers the Board, for any purposes associated with the administration or operation of the Act, to require a medical practitioner or student or a person seeking registration to submit to an examination by a health professional specified by the Board or to provide a medical report from a health professional specified by the Board.
>
> The provision expressly goes on to cover examinations or reports that will require the person to undergo some form of medically invasive procedure. There can be no doubt that clause 86 empowers the Board to require a practitioner or student to undergo a blood test or to provide a medical report relating to the results of a blood test.

This should make it very clear to all members that the Medical Board will have sufficient power to require the testing of practitioners and students under any imaginable scenario. This clause therefore does not require an amendment. Finally, I wish to speak to the issue of self-incrimination, which is the subject of clause 82. The opposition wants to amend this clause so that it also includes the power to abrogate legal professional privilege. On this matter the Minister for Health and I have taken advice from the Attorney-General. I want to make this very clear—

The Hon. A.J. Redford: Personally or someone from his office?

The Hon. T.G. ROBERTS: His office. The issues involved in this clause are about legal policy in this state and not about how we interpret the law. I have received advice from officers within the policy and legislation section of the Attorney-General's Department, and it is their strong advice that the clause left should not be amended. The reason is that the South Australian statutes contain a mix of policy positions on this matter, and the Attorney-General wants to develop clarity and consistency. Both self-incrimination and the abrogation of legal professional privilege are very important matters in our legal system.

The clause as currently drafted carefully balances two competing interests: the right of accused not to incriminate themselves; and the need for the public to be protected from the acts and omissions of medical practitioners who pose a public health risk, who are incompetent or who behave in a seriously improper manner. I shall discuss this matter in more detail in committee. Again, I thank members for the time and effort they have taken with this bill; and, I suspect, more time and effort will be put in. The care that has been taken to get

the bill right will pay off when it is proclaimed and the Medical Board of South Australia commences administering it. The South Australian public will be afforded a much greater degree of protection than is the case under the current act which, clearly, is out of date. I commend the bill to all members.

Bill read a second time.

In committee.

Clause 1.

The Hon. T.G. ROBERTS: I suggest that the honourable member places his questions on the record now and we can continue with the committee stage tomorrow. I think that would probably be the way to proceed given that we have a *Notice Paper* to move through.

The Hon. A.J. REDFORD: I thank the government for its response to the matters that I raised in my second reading contribution which, I might add, I made only last Monday. I thought that I had made it earlier than that and, in that respect, I apologise. There are just a couple of issues because the opposition formally received the government's amendments only this morning. I have not had an opportunity to go through them in detail with the shadow minister, the Hon. Dean Brown. However, I did speak with him a short time ago and he indicated to me that he had not had an opportunity to negotiate or talk to some principal stakeholders, in particular, the AMA, in relation to the government's amendments. He indicated that we may not be ready to proceed tomorrow.

We will do our very best to try to get this bill through then but, if we find that some issues could be the subject of contention, and we do not have a definitive response from the AMA, we might have to put it off. That is not my style, because I would like to have it finished, because it has been around since 2001. I put that on the record. I know that the minister has made her staff available for briefings in the morning. I hope that we can get this done tomorrow, but, if we cannot, it will not be because of lack of effort on my part.

Progress reported; committee to sit again.

PROFESSIONAL STANDARDS BILL

Adjourned debate on second reading.

(Continued from 20 July. Page 2065.)

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank honourable members for their contributions to the debate on this bill and their support of the second reading. The Hon. Mr Lawson asked about the position in Victoria. He noted that Victoria had proposed to exclude claims for breach of fiduciary duty from the coverage of its professional standards legislation. He mentioned that consistency of coverage around Australia is important and asked for confirmation of the Victorian position. I confirm that, in the end result, the Victorian Professional Standards Act does not exclude liability for breach of fiduciary duty. That was Victoria's initial intention but, on reflection, it has chosen to amend its act to be consistent with other jurisdictions. The threat to consistent coverage feared by the honourable member and by the Law Council has thus been averted.

The Hon. Mr Gilfillan spoke about the profitability of the insurance industry. There is no doubt that insurers in Australia continue to make profits; I suppose they would not still be here otherwise. But, in general, it seems they are not making them on professional indemnity insurance products. An examination of this question by APRA last year showed that professional indemnity insurance was far from profitable. In a media release on 19 March 2003, Dr Darryl Roberts said:

> For every $100 of premium received for professional indemnity insurance, the industry is paying out over $145 in claims and expenses. The indications are that professional indemnity insurance is on average underpriced by about 50 per cent. This level of underwriting loss is simply unsustainable.

More recently, in January 2004 the ACCC released its second monitoring report on public liability and professional indemnity insurance. For professional indemnity insurance, the ACCC findings are based on responses from insurers who account for about half of the market for that form of insurance. The results indicate that in 2001 these insurers made losses on this product. They experienced some improvement in their underwriting performance for professional indemnity insurance in 2002 and could make profits, but there was a slight deterioration in underwriting performance again in the first half of 2003 as growth in claims costs exceeded growth in premiums.

The ACCC report also indicates that there has been an increase in average claim settlement size for professional indemnity insurance of 293 per cent in real terms between 1997 and the first half of 2003. Most insurers indicated that they expected premiums for professional indemnity insurance to increase further in 2004 by an average of 17 per cent. Even if insurers continue to make profits overall, they will not go on selling unprofitable product lines indefinitely. They will either increase premiums to the level needed to make a profit or they will stop selling the product. That is just what we have seen happen. Neither result can be good for Australian professionals or their clients. That is the background of this bill.

There is reason to think that the bill will help reduce the cost of professional indemnity insurance. For instance, the Professional Engineers Scheme risk management report of April 2001 reported that insurers had provided discounts on insurance premiums to engineers covered by schemes under the New South Wales legislation. That was in an environment where, as the Hon. Mr Lawson has explained, the scheme could protect only against claims under state law and not against claims under the Trade Practices Act. Schemes should be even more effective in an environment where they can operate on claims under both state and commonwealth law.

The Hon. Mr Lawson foreshadowed an amendment, and I will briefly explain the government's position on that. The bill now proposes that a scheme should be a disallowable instrument in the same way as a regulation. It thus makes parliament, and not the minister, the final arbiter. However, like a regulation, a scheme will take effect on the date specified in the *gazette* or after two months and will continue to operate unless and until disallowed. This is necessary because it will be important to have continuity when one scheme expires and its replacement scheme commences.

The honourable member proposes, however, that, although the scheme should be disallowable, it should not work in the same way as a regulation. Instead, it should be able to operate only once the question of disallowance has been disposed of, either by the elapse of time or by a vote. As members know, that could be some time. This will create a problem in a case where a scheme is reaching its expiry date and a new scheme is being prepared to replace it. Under the amendment, professionals will have to assume that their liability is not capped and they will have to buy insurance accordingly even if, in fact, the scheme later commences. They will not know

for how long this insurance is needed. This could be a real problem for them.

The government asked the Professional Standards Council to comment on the foreshadowed amendment. In summary, the council warns against it. The council secretary, Mr Bernie Marden, stated:

> The [South Australian] bill is part of a national system of legislation. A national approach is necessary because professional services and insurance are national markets. Therefore, there needs to be a high degree of consistency across the legislation of the states and territories so that 'national' schemes can be approved, commenced and managed under a universal approach. The proposed amendment to the [South Australian] bill is inconsistent with the approach that has operated successfully in [New South Wales], and which has been adopted by the other states and territories. It will, in my view, cause unnecessary difficulties and uncertainty to the managed implementation of schemes, and particularly in respect of national professional associations, national professional service firms and local firms trading interstate who will have to contend with multiple (state and territory approved) schemes that apply to a profession that may start at different times and, as a consequence, have different management and reporting cycles and different 'renewal' dates.
>
> Further, it is critical that gaps not occur between the cessation of schemes and the commencement of 'renewed' schemes because that leaves the participants exposed to 'unlimited' liability for any gap period for which they should insure. Experience shows that there already exists considerable difficulties in negotiating the complex, detailed and lengthy approval process (a process that equally applies to the renewal of schemes) for schemes to be renewed and commenced on time. The proposed amendment will increase the risk. That risk could be fatal to schemes and, consequently, the effectiveness of professionals standards legislation.
>
> The parliament has prescribed a robust and public process that must be satisfied before any scheme can be approved by the council. It is expected that parliamentary intervention would occur only in the most extraordinary circumstances where an approved scheme was inconsistent with the act (for example, the prescribed approval process was not followed, the scheme purported to apply to ineligible occupations and associations, the council determined and specified in scheme caps that are below the threshold ($500 000), and so on).

It is for that reason that I intimate that the government will not support the foreshadowed amendment, and I hope that members will give due weight to the views of the council on this matter in light of its experience with the New South Wales legislation. I again thank honourable members for their contribution to the debate.

Bill read a second time.

In committee.

Clause 1.

The Hon. NICK XENOPHON: With your indulgence, Mr Chairman, I would like to make a brief contribution to the bill, because I did not have an opportunity to do so during the second reading debate, and I apologise for that. I indicate briefly that I do not support this bill. I share many of the reservations of the Hon. Ian Gilfillan in relation to this bill. I am concerned that this is just another example along with the Ipp bill of consumers' rights being eroded for the benefit of large insurers.

My views in relation to this legislation (which is being enacted on a national basis) can best be summed up in an article by Richard Ackland in a column in *The Sydney Morning Herald* of 21 November 2003 headed 'One-size plan still squeezes the little people'. This article discusses professional standards schemes and how they limit the liability of professional organisations. I would like to read two paragraphs onto the record which sum up my views. Mr Ackland states:

> The economic consequences of this should not be underestimated. To start with, the anti-competitive potential is boggling. Professional and union associations, which are primary member cartels, are given the legislative imprimatur to enter into legalised conspiracies against consumers. Not only that, but the risk for transactions will shift from the service providers onto consumers. The risk in everyday business transactions thereby moves from those best able to manage it to those least able to manage. Not only that, but the incentives for prudence are considerably lessened.

He goes on to say:

> None of which is to suggest that service providers or anyone else should be exposed to unlimited liability. By the same token it is no answer to the problem to hatch a one-size-fits-all arrangement with considerable disincentives for any individual firm to opt out by competitively offering a higher cap. You could just imagine the cartel associations allowing that. Their whole insurance arrangements will be predicated on members all staying locked in one huge mutual embrace.

Mr Ackland also makes the point that, with these caps, if we look at what occurred overseas, 'it would mean that in New South Wales an Enron could not bring down an Arthur Andersen.'

I am a member of the Law Society of South Australia and the Plaintiff Lawyers Association. I disagree with the views of the Law Society of South Australia, which supports this bill. I am not certain of the position of the Plaintiff Lawyers Association, but I understand it has some reservations about this bill. For those reasons, I will not support this bill.

Clause passed.

Clauses 2 to 14 passed.

Progress reported; committee to sit again.

STATUTES AMENDMENT (ELECTRICITY AND GAS) BILL

Adjourned debate on second reading.

(Continued from 20 July. Page 2071.)

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank members for their contribution to the debate. In preparation for the commencement of full retail competition, the government created the framework to meet the regulatory needs of the industry and to ensure the protection of consumers. This bill is a continuation of that approach. The government seeks to increase the certainty in the marketplace by creating a three-year price path for the providers of the default standing contracts. This will reduce the risk to consumers and encourage greater competition. This bill will encourage the competitive pressure and assist in delivering lower prices for consumers. The bill will increase the power of the Essential Services Commission of South Australia to require information from standing contract retailers in support of their applications for price increases, and will enable closer scrutiny of the costs that these retailers pass on to consumers.

One of these costs is the high network charges created by the privatisation of the power industry. In its 2002 report, the commission found that the high electricity prices in South Australia were primarily driven by higher network charges, which were locked into the pricing arrangements established by the former Liberal government to maximise the privatisation process. This bill will also continue the requirement that ETSA Utilities be the retailer of last resort for the electricity industry for another five-year period. This requirement will ensure that consumers are afforded protection if the retailer they use goes into liquidation. Lastly, this bill provides for an extension to the consumer protection provisions in the standing contract. By enabling this protection to continue, it ensures that the 600 000-plus consumers who have not switched to market contracts remain protected.

I turn now to the questions that were asked by the Leader of the Opposition. In relation to the increase in electricity prices for grace period customers in July 2001, I am advised that the Business SA press release of 18 May 2001 stated that the increase that businesses were paying was an estimated 40 per cent or more for electricity in the competitive electricity market. In addition, the former government's own South Australian NEM task force report highlights increases of 30 to 35 per cent. Figure 9.1 of the report highlights that the bulk of customers receive an increase in tariffs of up to 45 per cent, with a number of customers facing increases in the range of 75 to 80 per cent.

In response to the issue of selling a monopoly, I am advised that there is no argument that the former government chose, as part of its privatisation process, not to form a number of competing incumbent retailers (as occurred in Victoria and New South Wales) and instead chose to sell ETSA power as the incumbent retailer with a dominant position; and, therefore, an effective monopoly where there was little opportunity for effective competition. The former government elected to do this despite promising initially to create a number of retailers, as shown in its electricity reform kit.

It is competition which will bring lower prices. During the past 18 months, nearly 100 000 small electricity consumers have agreed to transfer to market contracts—one of the largest market shifts to occur in Australia. This has occurred due to the policies this government has implemented. The contrast this provides with the outcomes of the policies the previous government pursued could not be starker: the sale of an incumbent retailer who retained an effective monopoly in the market and higher power prices. In regard to the Hon. Mr Lucas' query as to a similar regulatory decision regarding the pre-tax real weighted average cost of capital (WACC) of 8.26 per cent, included in the electricity pricing order (EPO) issued in October 1999 for both ETSA Utilities and ElectraNet SA, the ACCC's revenue determination in January 2000 for the New South Wales transmission company, TransGrid, included a pre-tax real WACC of 7.35 per cent, some 10 per cent below the deal done by the Liberal government.

Also in 2000, the Essential Services Commission of Victoria set a pre-tax real WACC of between 6.8 and 7.2 per cent for electricity distributors. In 1999, IPART, the New South Wales regulator, set a pre-tax real WACC of between 7.5 and 7.75 per cent for electricity distribution. In these cases the return allowed to the utilities started with either a six or a seven. I am advised that there was one decision which resulted in a WACC that started with an eight, and that was in South Australia. The Hon. Rob Lucas raised a number of questions regarding the governance of the Essential Services Commission of SA (ESCOSA). In regard to voting arrangements, the Hon. Rob Lucas's understanding is correct, with section 20(5) of the Essential Services Commission Act 2002 providing that each commissioner present at a meeting of the commission has one vote on any question arising for decision and, if the votes are equal, the chairperson may exercise a casting vote.

In regard to communication of ESCOSA decisions, I am advised that the commission has determined that the chairperson is the normal spokesperson of the commission for formal and statutory requirements, as well as on day-to-day matters of an operational nature. In general, commissioners would not make public statements unless agreed with the chairperson. In regard to the management of staffing, section 15 of the Essential Services Commission Act provides for the commission to engage staff, while section 18 of the act provides for the commission to delegate functions to a commissioner or any other competent person. I am advised that ESCOSA is currently developing revised governance arrangements in light of the appointment of three part-time commissioners, including a delegation of authority document. As such, many of the issues that have been raised in regard to the operation of ESCOSA will be detailed in the governance arrangements.

I refer to the Hon. Rob Lucas' questions as to how the three year proposed price path process will operate if someone puts evidence to ESCOSA that there has been some radical change in the electricity market during the three year period. The bill specifically allows ESCOSA to determine a 'special circumstance' under the new section 36AA(4a)(d). In such a case, ESCOSA may issue a price determination prior to the expiration of the previous one, under section 35A, without the need to comply with the normal requirement for a six to nine month review period, await a submission from the electricity entity or conduct a public inquiry. The resulting price determination would replace the one in place as the standing contract price for small customers and can occur at any time during the three year period.

In the inquiry into retail electricity price path issues paper which has recently been released by ESCOSA for consultation, ESCOSA seeks stakeholder input as to what approach should be adopted in the setting of the price path. One option is for the price path to include a formula which allows for a pass-through for particular types of events and for uncontrollable costs. This is a similar approach to the one adopted by the former government in the current EPO that regulates ETSA Utilities' prices. The circumstances referred to by the honourable member could potentially be such a pass-through event, resulting in an adjustment to the standing contract path price during the three-year term. This is consistent with the process suggested in the final part of the Independent Pricing and Regulatory Tribunal (IPART) whereby a price path would be set, with some annual compliance review to be undertaken by which the price can be adjusted.

An alternative, which is also canvassed in ESCOSA's issues paper, is to allow for the price path to be reopened if underlying conditions change. This may be by utilising the special circumstances provisions referred to in the new clause. Ultimately, the way ESCOSA deals with any events it considers warrants some variation in the standing contract price is at the discretion of ESCOSA having regard to its functions and objectives under the Essential Services Commission Act.

In regard to the impact on prices associated with the revised process, the IPART report largely endorses the methodology adopted by the commission but recommended a number of minor improvements to further enhance the current process with respect to its transparency and clarity. The proposed amendments will ensure that the setting of standing contract prices is done by a process which is more clearly defined and which provides all stakeholders with ample opportunity to have input into the process.

By setting a three-year price determination against clear benchmarks, both small customers and retailers will have greater certainty in the medium term and adjust their behaviour accordingly. Most importantly for this government, this improved process will assist small customers to make informed choices as to whether they will remain on the standing contract or take advantage of retail competition by transferring to a market contract.

The Hon. Rob Lucas raised a number of issues relating to retail gas prices that I would like to address now. Firstly, the honourable member sought information about price increases since 2002 by category of customer. I have this information and seek leave to have the statistical table inserted into *Hansard*.

Leave granted.

Table 1. Gas price increases since 2000
Maximum price increases for the sale and supply of gas

	11 July 2002	1 July 2003	28 July 2004
Overall	6.00%	3.46%	6.60%
Residential	6.00%	5.60%	7.30%
Small business (0-1Tj)	6.00%	-5.70%	-1.00%
1-10Tj business	6.00%	-5.70%	n/a

The Hon. P. HOLLOWAY: In addition to the question on the retail gas price increases since 2002, the honourable member sought clarification as to what the actual gas price increases were for 2003. The figures quoted by the Hon. Rob Lucas last night are not comparable as the 2002 tariffs quoted were GST exclusive and the 2003 tariffs quoted are GST inclusive, resulting in an overstatement of the gas price increase. I seek leave to have the statistical tables depicting the GST exclusive tariff for residential and business customers in the metropolitan area for 2002 and 2003 as gazetted on 11 July 2002 and 29 May 2003 respectively inserted into *Hansard*.

Leave granted.

Table 2. Gazettted gas tariffs for 2002 and 2003

Non-Business/Domestic	Per quarter	From 11/7/02 (GST exclusive)	From 1/7/03 (GST exclusive)
Non-Business/Domestic (non-pensioners)	Supply charge	$23.74	$25.07
Pensioners	Supply charge	$22.04	$23.37
Consumption	First 4,500 Mj	1.5670¢/Mj	1.6547¢/Mj
	Additional Mj	1.0090¢/Mj	1.0655¢/Mj
Business (0-10 Tj)	**Per quarter**	**From 11/7/02 (GST exclusive)**	**From 1/7/03 (GST exclusive)**
	Supply charge	$43.41	$40.93
Consumption	First 90,000 Mj	1.3296¢/Mj	1.2538¢/Mj
	Next 390,000 Mj	0.9663¢/Mj	0.9112¢/Mj
	Next 1,020,000 Mj	0.6576¢/Mj	0.6201¢/Mj
	Additional Mj	0.5282¢/Mj	0.4981¢/Mj

The Hon. P. HOLLOWAY: For the record, the 2003 residential tariffs increased by 5.6 per cent and business tariffs—that is 0 to 10 terajoules—decreased by 5.7 per cent. I trust that this information addresses the honourable member's issue regarding gas prices.

I turn to the amendments flagged with the government by the Hon. Nick Xenophon. It is understood that the aim of the amendments proposed by the Hon. Mr Xenophon is to ensure that customers receive as much information as possible on their electricity accounts to enable them to make informed choices regarding competition and energy efficiency. The government supports the appropriate provision of information to customers whilst having regard to the cost of providing such information. Should such an amendment be supported, the government would look to work with industry, ESCOSA and other stakeholders to meet the information objectives while minimising the overall costs.

To this end, discussions have already taken place with a number of the major retailers and the gas and electricity industries to ensure that they can deliver the type of information that is being specified in the amendment. On behalf of the government, I indicate that this amendment, in so far as it deals with increased consumer information as well as greenhouse gas, is acceptable and will be supported by the government. I note the contributions from the speakers and look forward to dealing with the amendments that have been foreshadowed when the bill goes into committee.

Bill read a second time.

COMMISSION OF INQUIRY (CHILDREN IN STATE CARE) BILL

Adjourned debate on second reading.

(Continued from 20 July. Page 2052.)

The Hon. R.D. LAWSON: I rise to indicate support for the second reading of this bill. In the course of my remarks I will also foreshadow amendments that the opposition proposes to ensure that this important commission of inquiry will satisfy the demands of those who have been calling for it for a very long time. My remarks will be somewhat truncated because, as the council knows, a bill with a similar name was introduced by me in this place on 30 June. In introducing the bill, I set out in some detail the reasons for the establishment of an inquiry. However, I think it is worth placing on the record the fact that since February 2003 the opposition has been calling for the establishment of an inquiry. Initially, we were calling for the establishment of a royal commission. The government consistently resisted those calls and, indeed, rejected and denigrated them.

On 3 June this year, I gave notice that I would introduce a bill to establish an inquiry. The government continued to say that an inquiry of this kind was unnecessary, that there was no justification for it, that the opposition was grandstanding, and that we had in mind to establish a forum for people to defame others and besmirch the reputations of others. When the government realised that we were proceeding with our bill and that it would be read a second time on 30 June, it suddenly announced an about-face and announced that it proposed to introduce on the following day a bill for the establishment of an inquiry. Clearly, the reason was that the government realised that there were sufficient members of this council and this parliament and that there was a strong groundswell of opinion in the wider community for the establishment of an inquiry. The government, having resisted for many months the establishment of an inquiry, decided that it would jump on the bandwagon and would seek to suggest to the community that the inquiry to be established was its idea.

On 1 July, the government duly introduced a bill in another place. On 12 July, the Leader of the Opposition wrote to the Premier noting the fact that there were then two bills with the same title in each house of parliament. In his letter, the Leader of the Opposition said:

> As you know, for many months, I have been calling for an inquiry into sexual abuse of children in the care of the state (usually called 'wards of the state'). Accordingly, I am pleased that your government has finally agreed to establish an inquiry. In order to avoid having bills in different terms being adopted by the two houses, I indicate that I am happy to examine modifications to the bills to meet that objective. In a spirit of compromise, I indicate that the Liberal Party will support the government bill if it is modified to achieve the objectives set out below. The precise amendments will have to be formulated after discussions.

The leader went on to say that he was concerned about the terms of reference and, in particular, that they appeared to limit the inquiry to procedural matters and process failures. The government bill contains the provision that the purpose of the inquiry is 'whether there was a failure on the part of the state to deal with' certain allegations that were made. In his letter to the Premier, the Leader of the Opposition said:

> In fairness to all parties, the inquiry should clearly be required to determine whether or not allegations are justified. The inquiry should be into the substance of the allegations—not merely how they were processed by the authorities. We cannot accept that, just because the inquiries undertaken by some churches have merely examined 'process issues', the state should be similarly limited. The churches had no alternative because their inquiries were private operations and their inquirers had no powers of compulsion. Nor did their witnesses have any protection.

The Leader of the Opposition went on to suggest that the terms of reference should be expanded so that the purposes of the inquiry were not only to deal with whether or not complaints were handled appropriately or adequately but also to examine and report upon cases of sexual abuse. The leader went on to suggest that an additional term of reference should be added to require the commissioner to report on the adequacy of the measures to provide assistance and support for the victims of such sexual abuse.

The leader suggested that the commissioners have certain qualifications, one of whom should be legally qualified and one of whom should be an expert in child protection issues. That was the model in the Anglican inquiry, and we believe it is appropriate. The leader went on to say (as I mentioned in my second reading introduction of the other bill in this place):

> We also believe that the chair should be a judge (or retired judge) from interstate. The reason for a judge (rather than a practising lawyer) is to ensure that the commission has status, independence and experience to engender confidence (especially amongst victims) that this inquiry is not just another 'whitewash'. The reason for a person from outside the state is to ensure that the inquiry will not be compromised by the chair having any professional or other association with persons who may be involved in or named in the course of this inquiry.

I add that this is an inquiry into claims of systemic abuse. The victims, in a number of cases over very many months, have been saying that there was in South Australia a certain culture within the police, the bureaucracy and the judiciary. They are the claims of the victims—claims that there was systemic abuse. In such a case, it is appropriate that the person appointed to examine the systemic abuse be someone who is not part of the system and who has had no part to play in the system; someone who is not associated with the people in the system.

One might easily dismiss, as many have in the government and elsewhere, suggestions that, for example, the judiciary might be involved in any area of sexual abuse in this state. The simple fact is that we have behind bars now in South Australia Mr Peter Liddy, a magistrate respected for many years, who has been found guilty of the most serious and foul acts of sexual abuse against youths over very many years.

We know, for example, that the Wood inquiry in Sydney, initiated by the activities of Ms Franca Arena, a member of the New South Wales upper house, identified there that a particular judge had been involved in sexual activities which were deemed abusive. We should not think that this state is immune from this poison of systemic sexual abuse, and it is for those reasons that we believe, and we still maintain, and we will be moving amendments to the effect, that the person appointed to head this inquiry should be a judge or a retired judge from interstate.

This point was made to the government. The government was well aware of it not only from my speech but also from the letter that the Leader of the Opposition sent. Following the dispatch of the letter of 12 July 2004 and a request for a meeting last week, eventually the government agreed to a meeting first thing on Monday this week, which was attended by the Minister for Families and Communities (Hon. Jay Weatherill), the Attorney-General (Hon. Michael Atkinson), the Leader of the Opposition, the opposition spokesperson on these matters, the member for Heysen (Ms Isobel Redmond), and also myself. At that meeting, the opposition representatives were told for the first time that Justice Mullighan had indicated that he would be prepared to take early retirement and undertake this inquiry, provided there was agreement between the major parties about his appointment.

We indicated to the Attorney-General and the ministers very clearly on that occasion that the question of whether or not the opposition would abandon its requirement of an interstate judge was a matter for the party room and that their information would be communicated to the Liberal Party room. In the event, the members of my party decided to adhere, for the reasons that I have mentioned, to an interstate chair. That information was communicated by me to the Minister for Families and Communities at lunchtime on Monday. It is clear, however, that the government had already decided that, irrespective of the attitude of the opposition, irrespective that a bill was before the parliament calling for an interstate commissioner—it was still being debated in the parliament—the government would appoint Justice Mullighan.

A ministerial statement was made first thing when parliament resumed on Monday announcing the appointment of Justice Mullighan. Clearly the idea of the government was to pre-empt discussion and debate about the selection of a commissioner. The government is now saying that any suggestion that an interstate commissioner be appointed would be a slur upon the reputation and name of Justice Mullighan, and I reject that entirely. This is not an issue about Justice Mullighan.

The government has chosen to put the name of Justice Mullighan into the public arena in circumstances where it was entirely inappropriate to do so. The government may have embarrassed the judge, but there is an important point of principle here which has nothing to do with the identity or the capacity of a respected local judge. The point here is a point of principle. We believe it is an important principle and, unless an interstate and independent judge is selected to examine this question of systemic abuse, the result of the inquiry will still leave many people deeply disappointed. We have seen a number of representatives of victims this week

in media interviews and other statements indicating their disgust at the government's approach to the appointment of a commissioner.

By way of amendment we will propose that there be a parliamentary committee of appointment to make the selection of a commissioner from interstate. We believe it is important that this be seen as a parliamentary commission from which the commissioner will report to the parliament and that this is not simply another government inquiry looking into the government's activities—not this particular government, but governments over very many years. There are important points of principle which should be upheld. We believe it is important that parliament should have a role in the appointment of the commissioner.

Indeed, it was proposed in the bill that I introduced on 30 June that the committee comprise three persons, namely, the Speaker, the Premier and the Leader of the Opposition. In discussions it has been pointed out that that would leave this council entirely unrepresented in the manner of the appointment, and that would be inappropriate. Accordingly, the amendment I will introduce will suggest that the President of the Legislative Council and another member of the Legislative Council who is nominated and elected by the Legislative Council but who is not a member of the opposition or government parties comprise the five members of this panel, whose only function will be to identify and approve the appointment of the commissioner and also to approve the appointment by the minister of the experts who will be appointed to assist the commissioner.

In his letter to the Premier, the Leader of the Opposition suggested that the government's bill, which provided that public hearings which could only occur in exceptional circumstances, be amended, and that the commission be given the power to sit in if the public interest required it. I am glad to see that the government has adopted this suggestion. The opposition also suggested that a number of powers from the Royal Commissions Act be included. We do not propose to pursue those issues, because we think there are more important issues of principle to be identified. The government bill originally required that the report of the commission be tabled in parliament within 12 sitting days after its receipt by government. In our view that is far too long.

The government has come back with a proposal that five sitting days are sufficient. Once again, we believe that is far too long. That would mean, for example, that in the current week if the report were handed to the government on Monday it would be many weeks—indeed, more than a month—before the government was under any obligation to table it in parliament. Everyone is aware that in those circumstances governments have an opportunity to soften up the public, to develop media strategies, make announcements and the like to minimise the effect of any report. This is a report—

The Hon. R.K. Sneath: It might be bedtime, but don't start dreaming.

The Hon. R.D. LAWSON: There is no dreaming there because the government realised the 12 sitting days originally proposed in the bill was outrageous. They themselves have acknowledged that it was an ambit claim and have reduced it to five or six sitting days. We propose that the report be tabled in this parliament on the next sitting day after its delivery by the commission.

Another important issue is the question of the terms of reference of the inquiry. The government's bill seeks to significantly confine the terms of reference. We believe that the terms of reference are too narrow, and we believe that they are too narrow in a couple of respects. First, the terms of reference are limited to allegations of sexual abuse of persons. Many of the allegations that we have received, and that have been made and widely publicised do relate to the sexual abuse of children but there are some others where the allegations do not necessarily relate specifically to sexual abuse but to abuse of people where serious harm has been caused to the person and, indeed, in some cases where deaths are alleged to have occurred as a result of abuse received by wards of the state. Accordingly, we will be moving amendments to ensure that the concept of sexual abuse includes not only sexual abuse, strictly speaking, but also conduct that was illegal and resulted in death or serious harm.

I have seen amendments foreshadowed by the Hon. Kate Reynolds which seem to go some considerable way towards meeting our objectives as well, and we will certainly be supporting an extension of the terms of reference in a manner to be determined. I also note that the Hon. Kate Reynolds has foreshadowed amendments, with which we agree, requiring the Commissioner to report on the measures which should be implemented to assist and support victims of abuse. We also think it is important to ensure that not only the commission itself receives the support of experts in child protection and police investigators, etc., but also that witnesses who come to the inquiry are provided with assistance and support. We already have, within the office of the Director of Public Prosecutions, a witness support service and we believe that appropriately qualified people should be designated to assist witnesses who wish to come before the inquiry and present evidence.

The government has been careful to remove any suggestion that this is a royal commission, and there has been no suggestion that legal assistance will be provided to victims in this instance. In those circumstances, whilst it may not be possible to give legal assistance to people who wish to come forward, they should be provided with assistance and support. For too long many of these people have been ignored by our system. They need to be encouraged to come forward so that their stories can be heard and that appropriate redress can be provided to them to the extent that that is possible.

It is, perhaps, unnecessary to dilate on the necessity of an inquiry of this kind, because it now seems to be accepted by all sides that an inquiry is necessary. However, I think that it is important to put on the record the fact that, in relation to the matters of sexual abuse of children who were wards of the state or to whom the state had a peculiar responsibility, it has been illustrated that we have a major cultural and systemic problem in our community.

We have come to recognise that there is a group of people—citizens in our state—who were the responsibility of the government of this state, and they were let down very badly by the system—incredibly badly. Many of the victims of sexual abuse, and abuse generally within our institutions, have been made to feel that their lives were not valued at all. For very many years there has been insufficient recognition of the serious harm that was done to them and the failure of our system to assist and support them. We are not suggesting for a moment that all the people who have been staffing institutions and who were charged with the responsibility for looking after wards of the state were culpable.

Many of them were fine, dedicated and committed people, but, according to all the allegations and information that we have received they could only be described (as the Leader of the Opposition described them) as beasts. Many people have lived lives, very often for long periods, with a feeling of guilt

and shame, and many of them feel that they were to blame for what happened to them. It is time for us to have an inquiry which will enable them to present their evidence to an independent and impartial commission which can identify the wrongs, and which, to the extent possible, can now right those wrongs.

It can be done only by a commission in which the victims have every confidence that their stories will be heard; and that for many of them, who have come forward in the past and suffered rejection, they can present their stories and be assured that they will receive an impartial hearing and that, finally, some justice may be given to them. I look forward to the committee stage of the debate. The amendments of the opposition will be tabled tomorrow.

It is important to say that the government will be suggesting that there is a matter of very grave urgency about all of this. It is an urgency that the government never recognised for all the months that we had been calling for these inquiries. Suddenly, there is a great urgency, but that fact was not stated by the government when the appointment of Justice Mullighan was foreshadowed—incidentally, an appointment which was unsupported entirely by legislation at the time the government chose to make the appointment. What is not stated is that, as was acknowledged by the ministers to the opposition delegation, Justice Mullighan is still completing his term of office in the Supreme Court.

He has a number of part-heard cases, and he is not available for three months to embark upon this task. Notwithstanding that, it is surprising that this government has decided that a report is to be delivered in six months, when it knows that this inquiry cannot even commence for three months. We do not believe we should be rushed into this. Tomorrow, the government will say, 'Rush, rush, rush.' We do not believe that the government should get away with what it has done in relation to pre-empting the appointment. I look forward to the committee stage.

The Hon. KATE REYNOLDS: The Australian Democrats wholeheartedly support a commission of inquiry into the abhorrent abuse of children who spent time as wards of the state in South Australia. However, tempting though it may be, I shall resist making comments about the accelerating and decelerating, the ducking and weaving, the fancy footwork, the somersaulting and the backflipping of both the government and the opposition alternately to resist or call for either a royal commission or an inquiry. Instead, I will focus on why we believe this inquiry is necessary.

We see this inquiry as providing an opportunity to establish the scale of the problem of all forms of abuse and neglect of children in institutions and in other forms of care and to evaluate and respond to the long-term social and economic effects on individuals and our society as a whole. As the Hon. Robert Lawson indicated, I have an amendment on file that seeks to widen the scope of this inquiry to include other forms of abuse inflicted on children and young people while they were wards of the state, rather than confining the issue just to that of sexual abuse or assault (as we prefer to name it). The Democrats hope that this commission will help in healing the hurt done to victims and provide some direction in terms of solutions and policies to address these issues.

The criminal sexual assault of children is an appalling crime because it is one perpetrated on the most vulnerable members of our society. It is an appalling crime because it has a lifetime effect on the victim and, in many cases, on their family, and because of the savage cost to society of this evil. Until recently, the sexual assault of children has largely been viewed as an occasional, individual crime. In some cases, it has been organised and, in many cases, concealed by others, and so has been able to remain relatively hidden. However, the grim truth, and the grim statistics, are now slowly being revealed. In the Senate in June 2002, my federal colleague Senator Andrew Murray, whose work on this issue is widely recognised, said:

> There are two types of criminals and two types of crime: those who commit the crime of sexually assaulting children and their accomplices, and those who criminally conspire to conceal those crimes and protect the perpetrators. There is also a third category of villain. It includes any politicians who refuse to address the problem, who do not or will not permit mandatory reporting, who allow poor public policy in this area, or who starve good agencies of money and resources to address the issue. This third category includes defence lawyers who terrorise child sexual assault victims who do come forward; DPP officers who deliberately let files die; police who defer to a cleric's collar rather than to a victim's pain; spineless people in the bureaucracy and health sector who have not done their job; and church leaders who pay hush money.

These are harsh words, but we believe that many of the people who have been sexually assaulted or abused in other ways would not disagree with the strength of them. Senator Murray continues:

> But then there are the warriors: determined police, dedicated lawyers, courageous health and social workers, community crusaders and priests who loathe the evil in their midst.

The Australian Institute of Health and Welfare report, Child Protection Australia 2001-2002, reveals a very distressing and grim picture. For instance, in the year 2000-01 the number of substantiated cases of abused and/or neglected children was 27 367. Of these substantiations, a total of 3 794, or 14 per cent, were for sexual assault.

All the research indicates that estimating the extent of child sexual offences in the community is very difficult. With the high level of non-reporting, we will likely never know the true extent of the problem. Secrecy and intense feelings of shame generally prevent (and, in the past, prevented) children and adults aware of the abuse from seeking help. Research and experience show that it is not until victims are much older adults that they are able to confront and deal with their painful and traumatic childhood experiences.

The extent and nature of the criminal assault of children means that Australia is burdened by considerable social and economic consequences. A significant percentage of these victims can descend into any of the following: welfare dependency, failed or dysfunctional relationships, unemployment, homelessness, substance abuse, crime and suicide. This is backed up by Australian statistics. For instance, Volume 19 of the 1994 Alternative Law Journal reports that 80 per cent to 85 per cent of women in Australian prisons have been victims of incest or other forms of abuse. A study of 27 correctional centres in New South Wales found that 65 per cent of male and female prisoners were victims of child sexual and physical assault; and the New South Wales Child Protection Council reported in 1992 that the probability of future delinquency, adult criminality and arrest for a violent crime increased by around 40 per cent for people assaulted and neglected as children. I have no doubt that the figures in South Australia would be similar and as frightening.

Various other studies reveal that a high percentage of those leaving care had suffered child sexual assault and that a high percentage of people suffering from severe mental illness had been the victims of child sexual and physical assault. The economic costs are likely to be as large as the

social costs. In South Australia, the department of human services conservatively estimated the cost of child abuse and neglect in 1995 to be $354 million. That figure is more than the $318 million the state earned in the same period from wine exports or the $239 million it earned from the export of wool and sheep skins.

So, it is not until members of parliament such as ourselves and policy makers understand the scale and effects of the range of abuse (including the abuse of children who have been in the care of the state, from emotional abuse right through to physical and sexual abuse) that we will be able to move from perceiving abuse as isolated individual incidents requiring criminal charges at times to a widespread social problem with huge social and economic costs requiring major programs to address the fallout. Most importantly, we must limit its recurrence. Put simply, society cannot afford the long-term costs of child abuse.

There is an extensive body of national and international research that shows that, if you hurt a child, you end up with a hurt adult. Research in Australia has revealed that most of the prison population is made up of people harmed as children, that those raised in care have poor educational outcomes, that most of the homeless are former state wards, that a strong link exists between child abuse and post-traumatic stress disorder and that the children of those raised in care often end up in care themselves.

A recent national report has conservatively estimated that child abuse and neglect costs Australian taxpayers almost $5 billion a year. Commissioned by the Kids First Foundation and the Abused Trust, the report found that child protection programs cost the community $797 million a year and that taxpayers foot an annual bill of $794 million to prosecute and punish child abusers.

However, the greatest single impost was the cost of the long-term social and human problems caused by child abuse. About $1 billion a year was associated with the human cost of those who are abused and neglected, including outlays associated with suicide, medical treatments and psychological trauma, and a further $2 billion was associated with the long-term social cost which included the cost of crimes committed by juveniles and adults whose childhood abuse was considered a significant factor in their anti-social behaviour.

Sadly, disgracefully and foolishly, governments have been dragging their feet, particularly in terms of providing programs and resources to assist those who were raised and those who suffered in care. We hope this inquiry will contribute to making some amends. By not doing enough before now, governments have loaded the welfare, health, societal and economic costs onto future governments and therefore onto future taxpayers.

The cycle of abuse and cruelty that has been passed onto the next generation must become a priority for those in a position to make a difference. Responsible governance is essential to effect major improvements to laws and programs affecting children and those who were damaged by being inappropriately raised in care. This is the only way that the cynicism about long-term inaction by successive governments can be dispelled and some confidence restored in the structures and systems which are now responsible for children in care. The overall lack of justice and support for those who have suffered in institutional care as children is scandalous, but the Democrats hope that this inquiry will provide the starting point for addressing the issue.

For the reasons I have outlined tonight, I will introduce an amendment to broaden the scope of the inquiry to ensure that all those who were abused or neglected whilst in the care of the state have the opportunity to have their story told and, importantly, as many have told me, they want to be part of ensuring that the abuse of the most vulnerable children and young people in this state does not continue. Having expressed our general support for the bill, the Democrats look forward to the committee stage.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank members for their contribution to this debate. I will deal with the substantive issues when we return tomorrow, but at this stage I thank members for their contribution and hopefully we will be able to pass this bill tomorrow and begin this inquiry as soon as possible, because I think that is obviously in the interests of not just the parliament but all those people who have been looking for some closure in relation to these matters. I again thank members for their contribution.

Bill read a second time.

BEECHWOOD GARDEN

Adjourned debate on motion of Hon. T.G. Roberts:

That, for the purposes of section 14 of the Botanic Gardens and State Herbarium Act 1978, this council resolves that the board of the Botanic Gardens and State Herbarium may dispose of any interest in, and be divested of any control of, any of the following land: Certificate of Title Register Book Volume 5862, Folio 262 (formerly Volume 4175, Folio 17); Certificate of Title Register Book Volume 5133, Folio 747 (formerly Volume 4175, Folio 188).

(Continued from 19 July. Page 2010.)

The Hon. SANDRA KANCK: This motion has been on the *Notice Paper* for almost four months. As it is worded, it does not spell out what is intended to be sold. That is unfortunate, when conspiracy theories start to emerge about what people's intentions are. I sought and obtained a briefing from the minister's office, and that appeared to be the end of the story. No-one had contacted me about it; it appeared to be non-controversial; and it seemed that the sale was a given and, might I say, a sensible idea. However, in the last week there has been some very organised lobbying against the sale.

Beechwood is one of three hills gardens with the focus on non-indigenous plants which are open to the public, the other two being the Mount Lofty Botanic Garden and Wittunga, which has plants from south-west Australia. Beechwood was purchased by the South Australian government in 1981. It seemed a good idea at the time and it was under threat. For those who love cottage gardens, rockeries, conifers and cast iron conservatories, then Beechwood is a very fine example of the way life used to be for the super rich in the 19th century. It is listed on the Register of the National Estate, and it is on the State Heritage List; so its protection is fairly well guaranteed, but one can never say that heritage listing will guarantee that.

There is no admission charge to get in, and, if someone wants to have a wedding or birthday party there, staff go in, mow the grass and tidy up everything at no cost to the people who are using those facilities. Keeping the gardens open for the small number who visit is a costly exercise for the Botanic Gardens, which is the body that has been responsible for its maintenance over the past two decades. The Board of the Botanic Gardens has long held that Beechwood is not part of its core business. The information that was provided to me at my briefing may have been put in the most pessimistic terms, but I was informed that as few as 600 people visit the

gardens each year, requiring a subsidy from the Department for Environment and Heritage budget of approximately $40 per head for each visitor. In addition, I was informed that $200 000 is needed almost immediately to upgrade facilities.

A few years ago a select committee looking at the future of Carrick Hill (of which I was a member) was told that Beechwood was an example of how best to manage a heritage garden. The secret was to open for only short periods of time each year in spring and autumn, as befits exotic and ornamental plants. The DEH web site reveals that the autumn opening dates for 2004 were 11 April to 9 May, and the intended spring opening dates are 3 to 31 October—which is hardly a long time. It certainly seems to be an indulgence to keep something like this open for a such a short time and for such a huge cost.

In 1995 a report recommended that Beechwood Gardens be sold. Last year discussions began between the Rice family and the government about a suggestion that, as owners of Beechwood House, they might like to consider purchasing the gardens as well. Agreement was reached, with strict conditions attached to the sale. Janet Rice, a Stirling resident, signed on behalf of McCaffrey Nominees. The sale is now dependant on this motion's being passed by both houses of parliament.

In the last few days I have received a number of emails claiming that there has not been adequate consultation. The minister's office has undertaken to provide me with a list of names of people with whom consultation has occurred, but I am aware that David Wotton (former member for Heysen) is one of those. Given that the sale was recommended in 1995, it does not appear to be something that has occurred out of the blue. I am aware that in May there was a story about the sale in *The Courier*, which is fairly widely read in the Hills.

In terms of what the Beechwood Gardens represent, alternative sites such as Wittunga and the Mount Lofty Botanic Gardens are available for connoisseurs of exotic plants. Nevertheless, concerns have been raised about the apparent right of the public to visit Beechwood. The fact is that there is no such right. More rights will be guaranteed to the public after the sale than before it. While we have been assured that the land will not be able to be subdivided as a consequence of the heritage agreement that the government has negotiated, concerns have been raised in the recent lobbying about the possibility that somewhere down the track the new owners—or, for that matter, the minister—could simply break the agreement. The contract documents for the sale are confidential, but I know that there are 18 pages of information and substantial appendices with strict requirements about public accessibility to the gardens. This includes a requirement that for at least two days in spring and two days in summer the gardens will have to be opened for the Open Gardens Scheme; and if that scheme goes out of existence, then on dates to be negotiated with the minister.

If parliament was to oppose the sale, the government could simply decide to not open the gates again. What is proposed is putting an obligation for access very much in black and white. As part of the deal, the new owners are required to put in $200 000 for necessary maintenance. As to the fear of subdivision, the agreement that is part of the sale documents prevents that. Not only is subdivision prevented but even the act of applying for subdivision is prevented. The price which will be paid is $250 000 and, with the added requirement of urgent maintenance funds, it is effectively $450 000. Some of the correspondence I have received argues that the price is too low. However, I understand that the Valuer-General has set that value based on the fact that subdivision cannot occur. Despite these stringent conditions, those lobbying against the sale argue that a future minister could unilaterally override these agreements. Hence, to assuage those fears, I am prepared to support a bill that the member for Heysen said she will introduce so that any changes would have to obtain the approval of both houses of parliament.

Earlier this afternoon, I spoke by phone with Mr John Rice to ask his view about a move to adjourn the vote on the motion until September or October. His response indicated to me a great deal of distress. He said that, if this occurs, he and his wife will refuse to buy and he would make that decision very public. For me, with the costs involved for the taxpayer in running Beechwood Gardens, this is a game of Russian roulette that I do not want to play. Some email comments I have received refer to Mr Rice's involvement with the Glenelg foreshore developments, and I presume from that that there is an inference for a desire for personal gain that would be behind the Rice family's motivation to buy Beechwood Gardens. Mr Rice obviously had no knowledge of the correspondence I have received, but in the conversation I had with him he volunteered the information that, as he and his wife are approaching retirement, they want to give something back to the community.

It appears to be an altruistic act. Mr Rice pointed out to me that he and his wife have access to the gardens 365 days per year, so they do not have to do this; and it will cost him and his family $300 a day to maintain, but they are prepared to do this as an act of altruism to the state. The problem that exists for the Rice family is that he and his wife are being subjected to a campaign of vilification in the hills. He told me of his wife going shopping and having people speaking loudly behind her back so that she can hear about what the Rice family plans to do with the property. He spoke of stones being thrown to break the lights on that property. If we decide that we will not deal with this motion at this point, all we will succeed in doing is putting that vilification on a longer time frame for the Rice family. I do not believe that a delay will achieve anything, because alternatives have been sought for 20 years by assorted governments and nothing better than this has been found.

The delay would allow people to express their fears and doubts, but it could also jeopardise the solution that has been brokered. One of the suggestions that have been made to me in the correspondence I am receiving is that the National Trust would be interested in running this property. I find this somewhat surprising. I have been a long defender of heritage and I am very much aware that one of the problems that the National Trust has is a continual one, that is, properties being bequeathed to them and their not having the money to maintain them. I see every reason that Beechwood Gardens would fall into the same category. As the Democrats' spokesperson on the environment, what is clear to me is that the money that is spent on keeping Beechwood Gardens in a state that suits weddings and birthday parties is coming out of the budget of the Department for Environment and Heritage when it could be far better spent on our national parks.

Until the state government rescued Beechwood in 1981 it had never been in public hands. It has had a brief sojourn as such, and the proposal before us will continue to allow public access albeit on fewer days, and the heritage values will remain. Unlike the Carrick Hill proposal of a few years ago, saving Beechwood will not require subdivision. If there

were no other locations for the public to view exotic plants or any other examples of how the other half used to live—and we do have other examples such as at Carrick Hill—or if the money that is going into the upkeep of Beechwood Gardens could not be better spent, we would not have to consider this motion. But none of these are the case. We have someone willing to buy the grounds to keep them well-maintained at no cost to the taxpayer with protections against the land being carved up. As far as I am concerned we should be accepting this offer with alacrity and enthusiasm, because a better offer will be a long time coming if at all.

The Hon. J.M.A. LENSINK secured the adjournment of the debate.

CONSTITUTION (OATH OF ALLEGIANCE) AMENDMENT BILL

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

PASTORAL LAND MANAGEMENT AND CONSERVATION (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

STATE PROCUREMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

STATUTES AMENDMENT (MISCELLANEOUS SUPERANNUATION MEASURES) BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

ADJOURNMENT

At 12.38 a.m. the council adjourned until Thursday 22 July at 11 a.m.